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**Morrison & Foerster Oral History Series**

**Robert D. Raven**

**BUILDING A LEGACY FOR THE FUTURE:  
LITIGATION PRACTICE AND SERVICE TO THE BAR  
1952 - 2000**

**A Series of Interviews Conducted by  
Carole Hicke  
Between 1988 and 2000**

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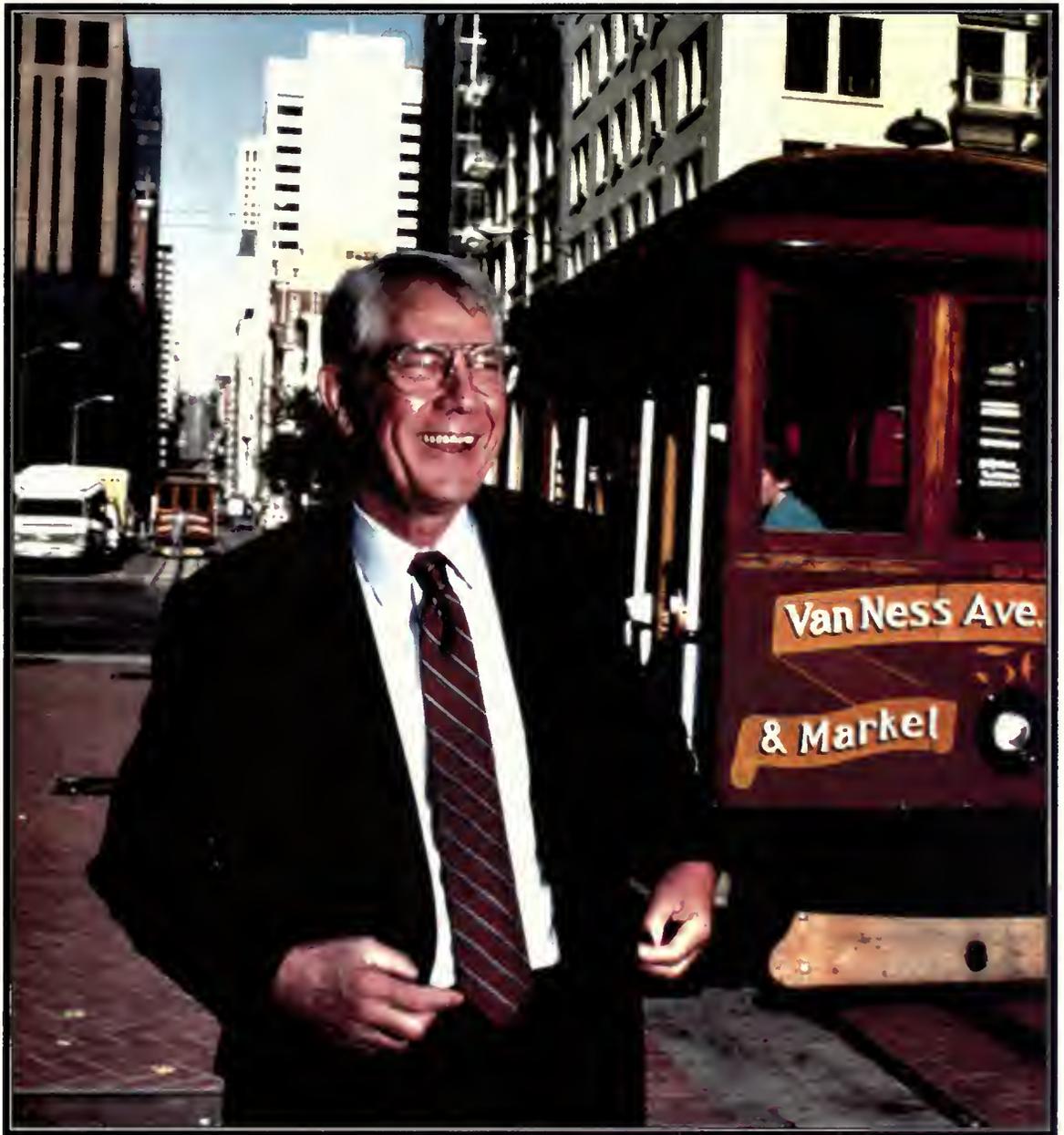
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**Robert D. Raven, Newly-elected President of the American Bar Association**  
*Photo: Tim Davis, Freelance Photographer to The New York Times (8/12/88)*



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Attorney

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Interviewed 1988 to 2000 by Carole Hicke for the Morrison & Foerster Oral History Series, the Regional Oral History Office, The Bancroft Library, University of California, Berkeley.

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## PREFACE

The history of Morrison & Foerster reaches back over one hundred years to when its founder, Alexander Francis Morrison, began practicing law in San Francisco in 1881. In 1890, he joined with Constantine E.A. Foerster to form the partnership from which today's firm derives its name.

As the partnership slowly expanded its practice, mainly in the areas of corporate counseling and business litigation, its clients were helping to develop the financial and manufacturing resources of the western United States. In the first part of the twentieth century, attorneys of regional and national stature became name partners in the firm: Roland C. Foerster, Edward Hohfeld, J. Franklin Shuman, and Herbert W. Clark.

A new generation came along after World War II, and the 1960s saw a spurt of growth that has carried the partnership to its present size of over 1,000 lawyers, providing full-service teams to individuals and corporations around the world. In the 1970s, after thirteen changes, the firm decided to revert to its old name, Morrison & Foerster.

In addition to delivering legal service to the firm's clients and the community, Morrison & Foerster partners have participated in local, regional, and national professional activities, in support of charitable organizations, and in pro bono work for the indigent.

In 1988, the firm decided to fund a series of oral histories to be finally housed at the Regional Oral History Office of The Bancroft Library at the University of California, Berkeley. By recording the recollections of those who helped build the firm over the past fifty years, the written records will be amplified and strengthened. The firm's high standards of ethical responsibility and excellence in the practice of law have come down from its founders and builders. The oral histories will help today's partners to pass these standards on to future members.

Tom E. Wilson  
Morrison & Foerster

July 2001  
Palo Alto, California



## INTRODUCTION

### Trees

Some time ago in an interview, Bob Raven recalled: “The GI Bill made it possible for me to go to college. A deer-hunting friend of mine had gone to Michigan State for engineering, so I decided to enroll too. But my eye was on forestry. I always liked trees, and I couldn’t imagine a better life at that stage than concentrating on them.”<sup>1</sup>

In a tiny float plane above the Tongass National Forest in the Southeast Alaskan archipelago, a manager of a large forest industry client pointed to the bare spaces in the green forests below: “People just don’t understand the silvicultural benefits of clear-cutting,” he explained. “Treating timber as a crop — as a renewable resource — allows a replanting and regeneration of the forest that in fact protects the slower growing Sitka spruce and the red and yellow cedar that would otherwise be taken over by the hemlock.” Crunching his large frame in that tiny plane, silver hair pressed against the ceiling, Bob Raven looked out the window and listened. This was an important new client, who was briefing us on an important new case. Bob nodded and said softly, “I understand. It makes sense.” He paused. “But you know, I’ve got some land north of San Francisco. I’ve seen some of the old growth redwoods.” He paused again. “I’ve always felt that cutting one of those down was like killing a man.” Silence in the plane.<sup>2</sup>

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<sup>1</sup> Excerpt from Richard W. Moll. *The Lure of the Law: Why People Become Lawyers, and What the Profession Does to Them*. Viking, New York. 1990.

<sup>2</sup> Bob’s unselfconscious honesty inspired trust. He and this client went on to have great respect and affection for one another.

A beautiful Mokoku tree grows in Numazu, Japan, in front of the main software development facility of a huge Japanese computer company. In front of the tree is a plaque honoring Bob Raven. The tree was planted as an expression of appreciation for the advocacy and wise counsel of Robert D. Raven and his law firm, Morrison & Foerster.

Bill Alsup (now a U.S. District Court Judge for the Northern District of California), Preston Moore and I met not long ago to talk about Bob Raven for this oral history project. We spent several hours discussing cases we and others had worked on with Bob. We were amazed at the endless opportunities Bob had created for so many of us; amazed at the unusual mix of qualities that caused such a range of clients to trust Bob with their most terrifying problems; amazed that, while fully engaged in the practice, Bob was also guiding our firm, other firms and the entire profession with his forward thinking and his example.

Preston had mentioned the tree planted by our client in Bob's honor. Because we found ourselves talking about trees and the "branching" of opportunities Bob had created in the firm and in the profession, I recalled some particularly meaningful words from our partner, Marshall Small, on his ascension to Senior of Counsel status. Marshall wanted to emphasize the important difference between a short-term and long-term view:

Some very ancient comedian — it may have been George Burns — is reputed to have said, 'At my age, I don't even buy green bananas.' That is a true short-term perspective. This view is to be contrasted with that of someone who plants a tree.

When you put that sapling into the earth, you are first of all expressing your optimism that the little tree will survive fire, flood, windstorm and pestilence and grow into a tree that provides shade or fruit. But a planter of trees is also doing something more. A planter of trees is engaged in what is a truly selfless act — because you are basically doing something for those who follow after you, with no clear expectation that you will enjoy the shade or fruits from that tree. I have always thought of my partners as planters of trees rather than banana eaters.

Bob Raven, for so many of us in the firm and the profession, is the quintessential planter of trees.

### Access to Justice

As President of the San Francisco Bar Association in 1971, Bob Raven launched a tradition of activism, inclusion and responsibility to the larger community that continues strongly to this day. Bob had been chosen as a candidate for president by a group of young law school graduates of the sixties who wanted to inject energy and social conscience into the agenda of what had been primarily a "gentlemen's" social club. The young lawyers knew that Bob shared their desire to change and challenge; they also knew that everyone, including the old guard, seemed to respect and like this man. Bob was elected, and the organization began to transform. Leading the San Francisco Bar Association was an early example of Bob's unusual ability to bring people together for meaningful change, and was his first taste of the public side of the legal profession. Bob Raven, once called a "revolutionary in pin-stripes," would be tapped again and again to lead and inspire the legal profession.

As President of the State Bar of California in 1981, Bob Raven organized California's involvement in the American Bar Association's march on Washington to keep alive the threatened Legal Services Corporation; pushed the Bar Board of Governors and the California State legislature to pass the California IOLTA (interest on lawyer trust accounts) which distributes millions of dollars to support legal services for the indigent; and urged the Board of Governors to establish a new standing committee of the State Bar on Ethnic and Minority Relations to "study and report on the status and participation of minorities in State Bar activities and the legal profession."

As President of the American Bar Association in 1988 (after serving as Chair of the Standing Committee on the Federal Judiciary, the Standing Committee on Legal Aid, and the Long Range Planning & Management Committee), Bob Raven's persistent theme was "access to justice." He wrote and spoke passionately on the subject, from deficiencies in the criminal justice system, to the prohibitive delays and expense that slam shut the doors to the courts for many middle-class citizens.

You know, a lot of lawyers worry about the image of the profession. They *should* worry, because the system just isn't working and the image is painfully close to the truth.... *Correcting* the system is not a 'liberal' notion. Access to justice is not a political cause. The Preamble of the Constitution says 'to *establish* justice.' That doesn't mean pursue justice, it means establish justice. That's what we all should worry about — in our professional associations, in our firms, and in our lives.<sup>3</sup>

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<sup>3</sup> Moll, *id* at 139.

Ahead of his time in recognizing the importance of alternative means of dispute resolution, Bob Raven was one of the creators in the early 1990's of the ABA Section on Dispute Resolution (the first new permanent ABA Section in 17 years), served as its first Chair, and was recognized by the Section at its annual conference in April, 2000, for his "inspired and superb leadership."

As one of the founders of the modern Morrison & Foerster and its Chair and leader for many years, Bob Raven showed the way for the firm, and others outside the firm, to a "larger sense of professionalism" that includes a willingness to trade off on the bottom line for such "goods" as commitment to *pro bono*, public and professional service. When Bob Raven became Senior of Counsel to the firm in 1994, after 42 years as a practicing attorney and decades of leadership of the bar, the law firm established the "Robert D. and Leslie-Kay Raven Chair and Annual Lecture on Access to Justice" at Boalt. Bob Raven was also named Alumnus of the Year by the *California Law Review* in 1999.

Penelope Prevolos, a former Chair of the California State Bar's Antitrust Section and leader of Morrison & Foerster's antitrust practice group, spoke at a large gathering honoring Bob Raven in 1994. Penny is a great lawyer. She was one of a phalanx of women emerging in a profession that for many years, and all-too-often still today, gave every break to tall, white males, preferably with some gray hair. As Penny stood at the podium, barely five feet tall, it was apparent that she was not in that category. As usual, she spoke forcefully and articulately. I remember it clearly. Penny pointed around the room at her partners and other respected attorneys and judges in the room, and said. "No one — no one in the firm or the bar — did what Bob did to provide opportunities for young lawyers, and especially, for women." She then looked at Bob, and said, "And Bob, you did it in the most important way. You respected us. And then you went out and quietly convinced the clients that we stood six foot two, had silver hair, and could damn well handle their legal problems."

For many years, the women lawyers at Morrison & Foerster have gotten together to discuss issues, and to give one another support and guidance in how to succeed at the firm and the profession. Bob Raven was the only male partner ever invited to these meetings.

### Who is this man?

He has been described as "Hollywood handsome," a "lookalike for *Mission Impossible's* Peter Graves," a man who "couldn't look more like an ABA president if he had been sent by central casting," "a lawyer's lawyer," "a man with no known enemies," "larger than life," or my favorite (from David Balabanian of the McCutchen firm) "a retouched photograph of himself."

A remarkable former partner, Ron Carr, described his first meeting with Bob Raven when Ron arrived for his first day of work. Ron had planned to become a banking lawyer and to work with banking partner Roland Brandel, who had recruited him from the University of Chicago Law School.

With this plan in mind, I duly arrived at One Market Plaza, 42nd floor, at 9:00 a.m., and was shown to Roland's office. I sat there quietly for some time, looking out on the bay and the hills beyond, the sun dappling everything in silver light. Now, as all of you are aware, for banking lawyers, 9:00 a.m. is the functional equivalent of dawn; for Bob it marks the end of the first third of the working day. In any event, I turned toward the door, and there stood Bob. My powers of description fail me. I thought for all the world that I was looking at Michaelangelo's working model for God, albeit fully clothed and with the best haircut I'd ever seen. I don't remember what Bob said exactly; something about a couple of little cases on which he needed a little help, a couple of weeks' work and no more, not really work anyway, but fun, all of this with an energy and enthusiasm that I hadn't experienced myself since I was roughly five, if then, and with a smile that far outmatched the sun pouring through Roland's window.

Ron Carr never left the litigation department.

Bob Raven giggles. Honestly. He giggles. It's kind of a "hee, hee, hee," or a "tee, hee, hee," or something in between. But it's a giggle, no doubt about it. Spontaneous and almost child-like. Anyone who has worked with him has heard it.

Bob Raven giggles when one of his bizarre ideas turns out to make all the difference in a case. It's there when he recounts some artful cross-examination by his partner and good friend, Mel Goldman; when he recalls recruiting the young Jim Brosnahan to the firm; when he describes Marshall Small crisply analyzing a Byzantine corporate governance issue to the amazement of all in a room; when he hears about Judge Alsup arriving to work at the federal courthouse at 5:00 a.m. It comes out when he recalls dealing with a firm management crisis with Carl Leonard, working on a strategy with Jack Londen to save legal services, trying old cases with Stan Doten and Jim Garrett (who saved Bob's house from a brush fire). It's there when he talks about Jim Bennett's "affidavit face," Preston Moore's emphatic brilliance, David Johnson's magical support in a courtroom, or Kathy Fisher's fearlessness in a crisis. It punctuates his reminiscences about any of a seemingly endless list of litigation and bar association experiences, stories of strategies

that succeeded or backfired, filled with successes, surprises, fears, follies and foibles of the characters who played their roles.

No one takes the responsibility as a professional more seriously. Few have had more fun.

### Where did he come from?

Robert D. Raven was born in Cadillac, Michigan in 1923, the second of eight children. When the Depression hit, his father was laid off from his job as foreman in a veneer factory, and the family had to move to a farm where they lived as sharecroppers. After school, Bob built fences, dug ditches, pitched hay, drove a tractor, and milked cows. When a partner once asked Bob where he got the energy to work from 5:00 a.m. to 10:00 p.m., Bob said, "My Dad worked hard. He wanted to be the best farmer in the valley, and that's sort of the way I am."

While working on the assembly line for Cadillac Motors in Detroit, Bob heard radio broadcasts of the bombing of Pearl Harbor. He joined the Army Air Corps at the age of eighteen. He was part of a crew in charge of a B-24 in the "Flying Circus," the 529th squadron of the 380th bombardment group of the 5th Air Force. He and his crew flew 31 bombing missions. During one mission, Bob's airplane was badly hit, and a leak in the hydraulic system threatened to disable the landing gear. Bob calmly struggled to stop the leak with torn rags, tape, and elbow grease, and saved everyone on board.

After the war, Bob Raven took advantage of the GI Bill to attend Michigan State University, where his high-school sweetheart, Leslie-Kay Erickson, also attended after her service as a sergeant in the U.S. Marine Corps. They were married during the second school summer, and now have three grown children, Marta, Matt and Brett, and four grandchildren.

After graduating from college, inspired by a book about Clarence Darrow and familiar with the Bay Area from a visit during the war, Bob began his studies at Boalt Hall School of Law at U.C. Berkeley in 1949, graduating in 1952. At Boalt, Bob was a member of the Order of the Coif and revising editor of the *California Law Review*. The dean of the law school told Herbert W. Clark, a well-known San Francisco attorney, that he should come over and grab a promising young law student before some other firm hired him. So, Mr. Clark, as Bob always referred to him, sent John Austin to Boalt to interview Bob, the first time an attorney had ever been recruited on campus by the Morrison firm since its inception in 1883.

### What do we treasure most?

Just as Mr. Clark was Bob's mentor, Bob became mentor to many of us. The oral history gives a sample of the diversity of cases Bob handled, which provided countless opportunities for younger lawyers to learn from the master. We, of course, treasure the practice opportunities.

Bob Raven aggregated specialties, handling subjects from condemnation actions, to probate litigation, to professional liability, to the most sophisticated securities class actions, intellectual property and antitrust actions.

Bob Raven's reputation in antitrust was unparalleled. Starting from the "movie theater cases" that Mr. Clark had entrusted to him (and that seemed to have a lesson for every case that followed), Bob was called upon to handle antitrust matters ranging from small, terminated distributor cases, to claims of industry-wide monopolization and price-fixing. He took the lead in numerous multi-district cases in industries from *banking* to *asphalt* to *sugar* to *timber* to *corrugated containers* to *fine paper* to *pulp*. As someone said, he was an expert from the stump to the wastepaper basket.

Always one step ahead, Bob Raven was deeply involved in early battles at the intersection of intellectual property and antitrust, leading the way in the Fujitsu-IBM arbitration during a period in which the copyright and patent laws were only beginning to chase the development of technology. He represented companies and individuals, plaintiffs and defendants, in civil and criminal proceedings, and in individual and class actions.

He was also ahead of his time in communicating clearly and early to clients the costs and risks of litigation, and exploring alternative ways of resolving disputes. As Bob cautioned clients and warned opposing lawyers about the risks of launching litigation, I can still hear him say how easy it was to file a case, but how tough it was "to dismount the tiger."

He had an extraordinary impact on the law and dispute resolution. But it was *how* he litigated, not what he litigated, that moved us all.

It was amazing to observe how Bob was able to communicate as clearly — with as great respect — with a logger in Alaska, as he was able to communicate with CEOs and boards of directors. It was clear to all of us that Bob respected and liked the staff at Morrison & Foerster as much as he respected the lawyers. He listens better than any lawyer I know. He doesn't suffer from the fear and arrogance that sometimes can keep lawyers from learning from a broad range of people and experiences.

He didn't preach. We saw him live his values: commitment to hard work; respect for everyone, regardless of position; and a larger sense of professionalism. He helps us to remind ourselves to try to be true to his example: If Bob Raven can do it with respect and without arrogance, so can we all. It is smart, it is right.

So, what do we treasure most?

Some of us entered the legal profession with considerable discomfort. As the son of immigrants, I felt no small sense that I didn't belong in a large law firm, in a tall stone and glass building, doing goodness knows what lawyers do for wealthy individuals and institutions. Women and lawyers of color likely felt that discomfort even more intensely. Would we fit in? Could we do it? Did we really want to?

We arrived at the firm that Bob Raven built. We were at first dazzled (and further intimidated) by his appearance — this large, pinstriped, silver-haired corporate lawyer. Quickly, we got to know him. Quickly, we were scared to death by the respect and responsibility he so freely gave to us. We were determined to try to earn his respect. We could not bear to let this man down.

And now, we can say: "We worked with Bob Raven." "We worked with Bob Raven." This has given us our greatest professional satisfaction. This is what we treasure most.

There is nothing quite like walking into a room with Bob Raven on a case. There is in that man a strength — a combination of respect for the legal process, respect for people, commitment to the client and the process, absolute ethics and principle.

No one makes us prouder to be part of this profession.

Our former partner, Ron Carr, mused about what makes a true leader. Ron had just gone through the exercise of analogizing Morrison & Foerster's Bob Raven to Rome's Augustus: "As Augustus reconciled the values of ancient Rome — the virtues of honor and faithfulness — with the demands of an empire, so Bob Raven preserved the values of the firm as it expanded." Ron concluded:

I recall, in this connection, one evening in the office at One Market Plaza. I was working on a project, probably, given the hour, for Alsup. Bob, of course, was still there. He always was. He came down to my office and said: 'Have you seen the sunset? Look at that sunset.' I followed him to the corner office a couple doors down; we stood there

and looked at the magnificence of San Francisco at dusk. Finally, Bob said: 'Don't get so wrapped up in your work that you don't see the sunsets.' With that, he padded in his slippers back to his office.

Ron concluded: "Great commanders have spirit and vision, a moral authority that compels mortal soldiers to follow where they lead, and do it gladly."

God, how we all ached to follow him.

I think of Bob, big and strong in his gray suit. Powerful. Striding. Smiling. I also see Bob during weekends in his slippers and his sweater. Gentle. Thoughtful. And now the passing years have bent him, and the power, the stride are gone. But the gentleness is there. The thoughtfulness. And the smile that was brighter than the sun passing through Roland's window.

So many seeds planted, so much shade. A towering redwood, a powerful oak. A remarkable man.

Peter J. Pfister

San Francisco, California  
June 2001

## INTERVIEW HISTORY

Robert D. Raven is a superstar in the legal field. Because of his many contributions to his law firm, to bar associations, to legal aid services, and to the public, Morrison & Foerster decided to sponsor the recording of his recollections.

Born and educated in Michigan, Raven served in the army air force during World War II. Graduating from Michigan State University, he and his wife Leslie-Kay went west to Berkeley, California, where he obtained his law degree from Boalt Hall. In 1952 he was recruited for Morrison & Foerster by John Austin and agreed to join the firm as litigator assisting Herbert Clark. Clark passed along to Raven much that Raven, in turn, passed down to his partners and associates—highest quality law practice and impeccable standards of ethics—that have become hallmarks of Morrison and Foerster’s firm culture. Raven’s recollections of other older partners evoke the early days of the firm.

Raven played a crucial role in the modernizing of the firm in the mid-1960s. He brought in new attorneys and new clients at a time when they were needed. He believed in reaching out to women and giving them responsibilities they’d not had before. Eventually he became head of the firm.

In the 1970s, he became interested in bar association work. As president of the Bar Association of San Francisco, he motivated its member to become more active; he was especially interested in helping the underprivileged. As president of the California State Bar Association in 1981, he urged similar issues. Then in 1987-1988 he was president-elect of the American Bar Association, then president the following year. With his enormous prestige, his courtly good looks and his modest demeanor, he was able to promote his goals—more pro bono work by lawyers, putting more women and minorities into responsible ABA positions, lobbying on behalf of the Legal Services Corporation, and the use of alternative dispute resolution.

During all these years, he was also litigating lengthy and complicated cases, training associates, and bringing in more cases than anyone can even remember. He would usually ask a colleague, “Could you just help me out on this one for a short while?” And several years later, the colleague would still be “helping out.” In Raven’s case, this meant turning the case over with the offer of advice “if you need it.”

Raven was interviewed on thirteen occasions: 1988; November 17 and December 17, 1997; January 14, March 4, September 14, December 10, 1998; January 13, February 8, 17, 26, March 24, July 9, 1999; July 26, 2000. We were joined in many of these interview sessions by partners and colleagues who had worked with Raven over the years. What

comes across vividly is the enjoyment they found while enduring incredibly long hours under sometimes difficult conditions, and the high regard they have for Raven.

Eileen O'Hara, Raven's secretary and MoFo firm historian, supervised or did most of the clerical work, including some of the transcribing, research, arranging interviews, indexing, and checking and rechecking names, dates, places, and case citations. The appreciation owed to her is beyond expression. She was helped by MoFo Senior Associate Librarian Steven Frankenstein, who looked up cases, names and dates. All narrators reviewed their sections of the transcript and submitted necessary corrections.. The text and index were read by MoFo's professional proofreader, George Ritchie, and reviewed by Marshall Small. Joseph W. Maloney reviewed the chapter on Raven's 5<sup>th</sup> Air Force experiences. Our thanks to Peter Pfister for his introductory remarks.

This oral history is part of the ongoing documenting of California legal history by the Regional Oral History Office, which is under the direction of Ann Lage, Acting Division Head, and under the administrative direction of The Bancroft Library, University of California, Berkeley.

Carole Hicke  
Project Director

March 2001  
Regional Oral History Office  
Berkeley, California

## BIOGRAPHICAL INFORMATION

Subject's Full Name ROBERT DUNBAR RAVEN

Address (Office) Morrison & Foerster, LLP, 425 Market Street, San Francisco, CA 94105

Telephone: Office (415) 268-7000

Parents: (Names, birth dates, occupations)

Father Christian Raven, b. April 1, 1899, farmer, foreman veneer factory, & creamery worker

Mother Gladys Lucille Dunbar, b. April 6, 1897, Wexford Co., Michigan. Schoolteacher  
prior to marriage, then homemaker (8 children)

Subject's Date and Place of Birth September 26, 1923 Cadillac, Michigan

Primary and Secondary Education (Where obtained, dates)

Emerson Elem. School, Franklin Elem. School, Cadillac, Michigan; Leroy School

Cadillac High Sch., Cadillac, MI; Burdell Township Agricultural School, Tustin, MI

Higher Education Michigan State University, A.B. (with Honors) 1949

Boalt School of Law, U.C. Berkeley J.D. 1952

Profession (Jobs, dates began/ended, where worked)

Attorney, Morrison & Foerster, LLP, San Francisco, CA (1952- 1994)

Senior of Counsel, Morrison & Foerster, LLP, San Francisco, CA (1994 - present)

Military/Government Service (Dates and Places) T/Sgt, 5th Air Force Aerial Gunner

Biak, New Guinea; Darwin, Australia; Mindoro, Philippines; Okinawa (1944-1945)

Civic and Community Activities and Honors Awards & Honors too numerous to list

President, Bar Association of San Francisco 1971

President, California State Bar Association 1981 (6 months - split term with W. Wenke)

President, American Bar Association 1988-1989

Alumni of the Year, California Law Review 2000

Spouse: (Name, occupation) Leslie-Kay Erickson, breeder & trainer of Morgan horses

Children: (Names, dates of birth): Marta (September 26, 1952) Matt (January 12, 1958)

Brett (June 17, 1959)

Articles Written by Subject Various legal articles and speeches



## I. BACKGROUND

Interview 1: November 17, 1997

[Begin Tape 1, Side A]

### Parents and Grandparents

- Hicke: Let's start this morning, Bob, with when and where you were born.
- Raven: Well, I was born in Cadillac, Michigan, which is about 100 miles north of Grand Rapids and about 90 miles south of Traverse City, and I was born on September 26, 1923.
- Hicke: Okay, we'll stop there for a minute and go back, and I'd like to ask you about your parents and grandparents.
- Raven: Okay. My father was Christian Raven ("Chris"). He came over to the U.S. with his mother, I believe it was, when he was one year old. My mother was Gladys, and her maiden name had been Dunbar before they married. Then my grandparents on the Raven side: my grandfather's name was Matt Raven. In Denmark before he came over, it was M-A-D-S [*spells*], and I don't even know how you pronounce that, but it's the same as Matt, they tell me. He was Matt in this country.
- Hicke: He was born in Denmark?
- Raven: He was born in Denmark, he was born in the Province of Schleswig-Holstein, which is now part of Germany, part of Prussia, and he ran away from there when he was a boy, and he became a member of the Royal Danish Guards. In fact, I remember the story about going home to his father's funeral. They had a big farm, and his sister stood up in the top of the loft where you put in hay and told him which way to go to get away from the German soldiers when he went back.
- Hicke: He was going to be drafted into the German army?
- Raven: He would have been, but he would rather be in the Royal Danish Guards. But he came over, and then my grandmother, Christiana Marie Raven, was his second wife, which was kind of unusual in those days. He had several children by the first wife, and she had tremendous health problems.

And then on my mother's side: her father's name was John Dunbar and her mother was Sarah Dunbar. I remember them both, especially her because she lived longer, and they lived a block down the street from us when we lived in Cadillac, Michigan.

Hicke: Were they originally from Michigan?

Raven: No, John Dunbar was from New York. He served on the northern side in the Civil War. John Dunbar. And Sarah Dunbar was, I think, Pennsylvania Dutch. Don't ask me what that is—I don't know—but I think it's a German mixture. They lived out East, and then they moved to, I think, Ohio, and then they moved to Michigan. And then all the other children, including my mother Gladys, were born on a farm near Cadillac, Michigan.

Hicke: So they were farming.

Raven: They were farmers, yes. That's quite a large farming area in northern Michigan.

Hicke: What were they growing?

Raven: Well, mostly alfalfa for cattle, and corn, and things like that. Now you could argue about how good the land was. My Uncle Harry used to say that it was so poor you could barely raise an umbrella on it [*laughter*]. Roosevelt put the 3Cs [Civilian Conservation Corps] in there, and they re-treed that whole area, and today it's got beautiful forests all over it. Where you don't farm, you have beautiful pine forests.

Hicke: Oh, nice.

Raven: Yes.

Hicke: What were your other grandparents doing?

Raven: Well, when Matt Raven came to this country, there's an interesting letter to his wife written when he was on the ship about it that I'll show you. It's translated into English.

Hicke: You have it here?

Raven: Yes, I do, let's see.

Hicke: Could you stop for a minute and find it?

*[tape interruption]*

**JOURNAL/LETTERS OF MADS "MATT" RAVEN  
CROSSING FROM DENMARK TO NEW YORK  
ABOARD THE VESSEL *TINGRALLI***

*May 30, 1900, Wednesday*

*Left Copenhagen at noon. Shortly after we had dinner, soup and meat with horseradish sauce. Could eat all we wanted. Six o'clock night, Thea, butter sausage, cheese on either white bread or pumpernickel. All is well on board - wonderful weather.*

*May 31, 1900, Thursday*

*Breakfast 7 with coffee with bread summer sausage - cheese, also a soup. Had different soup, meat, potatoes. Evening meal and breakfast about the same. Had a really wonderful day. Copenhagen and area around it is absolutely beautiful. But by Kristiania the area is unbelievable. We went into Kristiania Fjord 9 morning. Rocky mountains stood straight up as a wall on both sides of the fjord. Only God knows the height, on top green trees, Christmas trees. Also very interesting the small islands along Norway coast, small towns along the edge of water. Sailed for 6 hours along the coast. I shall never forget the beautiful area.*

*My two friends went into Kristiania. We walked all through town. Took an electric streetcar that took us way up the highest mountain. Strange that a streetcar could go up the mountain. On top was a restaurant. With a glass of beer we truly enjoyed the concert of 34 musicians, wonderful view (If only you had been at my side). That's Helen Calen came back to the ship. Everyone busy loading, also new passengers. Ship left at 10:30 again. A wonderful day at 45 gre price of beer.*

*June 1, 1900, Friday*

*Had our breakfast, lunch, and dinner, same time as those days before. Pea soup with pork, potatoes and mustard gravy. We are being fed real well. I am healthy and well. I eat well since I got out in the ocean. After a beautiful day, sunshine, no wind - we got more people coming aboard in Christianssend. We were allowed four hours to visit the city. We got out of the Harbor at 7 in the evening. Everyone was on deck to see the last of Norway Land. I and the man from Island Fyn are together most of the time. He is 33-34 years old, and decided to find work together, maybe in America's woods. That night there was*

*music and dance until 10:00 pm. But at 9:00 pm chief steward send all ladies to go to bed. "There must be order." The men could stay up much later. Last night, the foghorn went off every few minutes. I did get up and took a look at the weather. Went back to bed and slept until 6:30 am. Dinners are all very good. I have a good appetite. Pea soup and fresh bacon with potatoes. Next day it would be Danish soup, fresh bacon and Danish fruit soup, or fish with potatoes. Fynhoen, the man from the Island of Fyn [and I] spent four hours together in Christianssend. He is about 34 years old. We have decided to be together, maybe in the woods. About 7:00 pm we left Norway to cross the North Sea. Music started again and dance until 10:00 pm. Ladies had to get down and go to bed at 9:00 pm. Head steward said, "This is a must. We must have order." We men could stay up as long as we wanted.*

### June 2, 1900, Saturday

*Next morning situations had changed. The ladies' area was having many seasick. Some fed the fishes. Others sang and laughed when the ship moved from side to side. In our man's area, only very few got sick. I became hungry, went to kitchen area for food. Seaman told us if we could stand the motion of the boat 3-4 days, we had a good chance of not getting sick. After a short nap, there was music and song on deck. No dance. Ship rolled too much for dancing.*

### June 3, 1900, Sunday

*It is a holiday. We don't feel different, but I took my practice book out and read, which was kind of hard, since too many people around.*

*This morning while at breakfast, the engines on ship were stopped because of fog. The Captain did not want to take chance on going through the narrow water by Scotland. At 12 noon we sailed again, went north around the islands. We lost 8 hours on that trip. Had music and dance on deck about 9:00 pm. Many ladies became pale. One after another had to go to bed. We are now in the Atlantic and ship rolls a bit. I did not get sick. Had breakfast with Island Herring and two slices of dark bread.*

### The Fifth Day, Monday

*Music, song and dance and we, the older people, are talking in Danish, Norwegian, Swedish, Finnish, and English all in the best way we could.*

### June 5, 1900, Tuesday

*It is a Danish holiday today, so my friend and I are going to have two beers today. We cannot do this too often, must drink water. Bottle of beer costs 15 gre in Denmark but it cost 30 gre on the ship. One soup with beer cost 1 Danish Kroner and 10 gre. Not much sale on the above items. Young people cannot dance today, too windy, ship is rolling. At noon, all sails went up, plus engine at full power. Still not seasick.*

June 6, 1900, Wednesday

*A strong wind and rain. Sea went high often over the ship. Most people had their meals in the cabins. I have enjoyed the spot on front of ship. Water takes you up mountains, down the valley, and over the ship. Just fantastic sight. Only about 50 people are up and about. All others are sick or just afraid to walk. I still eat well and we can get as much as we want. Still pretty bad weather. The youngest on board is 6 weeks old, the oldest a lady, 79, she is lively and well, not sick.*

June 10, 1900, Sunday

*Weather better. Some sunshine until fog came along. All is well aboard.*

June 11, 1900, Monday

*Today again windy, but no one pays any attention. Getting used to it, I guess. I am fine but thinking about my dear ones in Mølby and my children, my siblings and my old mother. How are you all? Do you think a little about me? How are you all? Are you well? You are always in my thoughts. It is going to be a long time until I can hear from you.*

June 12, 1900, Tuesday

*All is well. Wonderful weather, no wind. Today we had guests on board. 20-30 Norwegian fishing boats. They are in this area from early Spring until late Fall. They brought letters to their home. Ship is taking mail with them.*

June 13, 1900, Wednesday

*I do hope this trip is almost over. We are probably in New York on Sunday. It really is pleasant to travel by ship.*

June 14, 1900, Thursday

*The sea is like a mirror. Seamen are bringing sails up, arrange them for protecting us from too much sun. It is really getting warm. We are close to America now. Children were vaccinated today because most parents did not [have] papers with proof of same done in Denmark.*

June 10, 1900, Friday

*It has rained most of the day. All is well.*

June 16, 1900, Saturday

*Today another warm day. Two other ships are following us. We are close to harbor. Counted about 60 sailships and steamers. Music and dance on deck tonight. The ladies are allowed up here until 12 midnight. This is the last night on board. I am alone in our room writing. Only one other man, 66 years' old from the area of Vejle. Here the days seem shorter than at home. It gets dark earlier than in Denmark. Sun was down by 8 o'clock and it is dark. It is 11 o'clock now and I am in bed. Dear Kristiane, when you get up in the morning, it*

is 5 o'clock. that is all the sleep you get. We have to get out of bed early, pack suitcases. Duty customs comes on ship.

June 17, 1900, Sunday

I am writing letters to Ole, Alala and Guldager, also to you and old mother. A doctor came on ship, duty customs also. Went off ship into a huge hall. I have never seen anything that large. In long single lines we numbered. A inspector [took] our ticket from ship was changed to train tickets. It was then 4 o'clock afternoon, when we got into train and all door closed. Train cards are different than back home. A door in each end, with a long hall between the sofa seats, 2 persons in each. We sat there from 4 o'clock until 9 in the evening.

It is almost impossible to describe what we saw. Steamships, large and beautiful bridges, one train after another drove across them. Tall houses, 16-18-20 floors is all over. Train left New York with only emigrants. It is now 9 evening. Several tracks were along our train. Everything very fast. Was very nervous when trains passed us on both sides. In a colossal speed we drove all night until 6 o'clock in morning. At train station we could get coffee and lunch. After the stop, we left again to a place called Buffalo. All got out and [were]directed to different area. There was only 3 people for Lindngan. We had to wait from 9 morning until 1 afternoon. 7 o'clock was taking a train another place. We are two Danes left. We came around Niagara. We had learned about this in Geografi. The train stopped for 5 minutes so we could see the waterfalls. 10 o'clock evening we came to a city called Detroit. We left Detroit 6 o'clock in the morning. Next stop was a city called Grand Rapids. It was midnight. Until 11 evening time went good. We went into the city with my revolver in my pocket. On the train there is no danger. On the street we are responsible for ourselves. We must be careful. There is always someone that would like to test the emigrant. It is no risk traveling here. Don't ever show your ticket, so someone could steal them.

There was a small boy, 8 years old, who traveled all alone. Everyone on the ship spoiled him. His father and mother live in Lumerter, so he was happy to get this far.

I had an address of some Danish people in Grand Rapids. I could not ask for help on the address, so I walked streets up and down. Suddenly I saw Ostania Street. It did not take long to find No. 321. I found them home. They had been here 11 years. They needed to hear the very latest from Mølby, so we had a great day together.

Hicke: You were just saying this letter is from your grandfather to your grandmother.

Raven: Yes. He wrote every day. When he got off of the boat, he got on a train and went to Detroit, Michigan, I think it was, and then he went to Grand Rapids, and then he went on to Cadillac. They had a farm up near Manton, which is just north of Cadillac, for many years.

In fact, the way my mother married my father: he was working on this farm, and she was teaching in a county school right near there. They got to know each other, and that's how they got married. She was a schoolteacher.

Hicke: I wonder if we could just pick out a paragraph or a couple of paragraphs of this letter that you think are interesting. If it weren't so long, I'd say read the whole thing, but maybe that's a bit too much.

Raven: Right in the very beginning he said—I can't make out the name of the ship, but this is May 30, 1900:

*Left Copenhagen at noon. Shortly after we had dinner, soup and meat—he was a good eater—with horseradish and sauce. Could eat all we wanted. Six o'clock at night, they had tea, butter, sausage, and cheese on white bread or pumpernickel. All is well on board; wonderful weather.*

Hicke: Was this a passenger ship?

Raven: Yes. And then the next thing is a Thursday, and the letter says what they were doing then. It's quite interesting and about eight pages.

Hicke: Eight long, handwritten pages.

Raven: Yes.

Hicke: Wonderful to have that. That's really great.

Raven: I've got extra copies, so I might give you this, and you might see what you'd like to include.

Hicke: Thanks. There's your grandfather's name. And your grandmother's name, Christiana. Now, you said both of your parents were raised in Michigan?

Raven: Yes, they were both raised in Michigan—my father up on a farm near Manton, until he came to Cadillac and took a job. And my mother was born south of Cadillac. Quite a large family. She was the youngest of all the children in her family. Dad was the oldest of granddad's children by his second wife. But then granddad had three children by his first wife. One of those, whom I liked very much, was Truels. He was a captain in the police force in Detroit for many years, and he used to come up and see us.

Hicke: You had a lot of family.

Raven: Well, a big family on both sides.

Hicke: Were they all in the same general area?

Raven: Well, the upper part of the Lower Peninsula in Michigan, pretty much, yes.

Hicke: Now tell me a little bit about your father. Where did he go to school?

Raven: My father—I doubt that he went beyond the eighth grade. I never knew for sure, but he was the smartest person I ever met. My mother was teaching, so my mother went through county normal [school] to become a teacher.

When he moved to Cadillac, he bought this house. He had a very good job with a factory that made veneer—maple veneer. And I guess we can go into that later as to what happened about that.

Hicke: Tell me about your brothers and sisters.

Raven: Yes. Well, there were many of us. The oldest was Lillian Neva, and then I was second, and then the third was Edwin Dean, and the fourth was Eugene Lee. The fifth was Clyde Emmett, and the sixth was Ann Caroline, and the seventh was Lois Jane. The final one, who was born when I was at Fort Dix Air Base in the Army Air Corps, is Theodore Rex. That's his middle name, Rex. We always called him Ted, and we always called Edwin Dean, Dean, and we always called Lillian, Neva. She was always Neva to all of us.

- Hicke: You had all these aunts and uncles, and you had a lot of brothers and sisters too. That's really wonderful.
- Raven: Oh yes. In the early years, we would have our Christmas parties at Grandma Dunbar's house, which was a block from our home, and it was a big house, but it would be totally filled with people. And even during the Depression, one of my mother's sisters, Aunt Cele—as we always called her—lived in Chicago, and her husband had a very good job with Armour's. And during the Depression, she bought toys for all the family, so we had a big Christmas. We were lucky.
- Hicke: Yes.
- Raven: Well, let me see. I guess I've named them all—there are eight of us—and Ted came along, as I said, very late in life. I was in the air force and working on the line on aircraft engines in Fort Dix when my father called me and said, "Bob, you have a brother!" which about knocked me over.
- Hicke: You didn't know he was coming?
- Raven: No. He asked if I could get a leave to come out and see him. I told him probably not very much, but I would see what I could do. Well, all they give me was three days, but that was pretty good.
- Hicke: You did get home.
- Raven: I got on the Red Arrow and went home, and he picked me up at the station, and I probably didn't have much more than a day and a half there out of the three, but it was nice. It was very good. Ted, as he grew up, became a teacher and was the principal of a big high school down where I used to go to school. And then he was a superintendent. And now he's retired, where all the rest of us, all older, are working away.
- Hicke: *[laughter]* What kinds of things do you remember about your early childhood?
- Raven: Well, as I mentioned, we lived in Cadillac from 1923 until about 1929 or 1930 at the time of the Depression. I mentioned my Dunbar grandparents lived next door. My Raven grandparents lived on a farm at one time, but they eventually moved to Cadillac, so they were also there.

Hicke: Cadillac was well populated with Ravens.

Raven: Yes. Yes. A lot of Ravens. Then in 1930, because of the Depression in the country, my father, Chris Raven, was laid off from his job where he was a foreman in the veneer factory, and the family moved to a farm. They didn't sell our house in town, but we moved to a farm as kind of sharecroppers about fifteen miles south of Cadillac in between these two little towns called Tustin, where I went to school later, and Leroy. We were there until about 1932, when times got better, and my father returned to our family home in Cadillac, and he took a job in a creamery and worked there the rest of his life. Well, he retired. And so we were back in Cadillac in our home for a little while. Then in 1934 or 1935, I'm not really that clear which year it was, my parents bought a farm about five miles south of Cadillac, where they lived for the remainder of their lives. Our father, as I said, continued to work in the creamery in Cadillac—and that's where most of us children grew up. We were farm kids. That takes us to the early education, doesn't it? That's about all, or do you want to ask more questions about this?

### Early Education and Activities

Hicke: No, that's fine, but before you moved onto this farm, you must have started school, so yes, let's talk about that.

Raven: Yes, that's right. My sister, Neva, and I went first to Emerson School, and it burned the year we were going there, so then we went to Franklin School. We were all sent to the Franklin School in Cadillac, and I went through kindergarten and my first grade there, first at Emerson and then at Franklin School.

Hicke: How did you get to school? Did you walk?

Raven: We walked. It wasn't really that far. Well, it might have been ten blocks or something like that. In fact Emerson was closer, and when we went to Franklin it was about five blocks longer, but we went a different way.

Hicke: So, you could say that you walked through the snowdrifts!

Raven: We did walk through the snowdrifts, and we always stopped at this little grocery store to get a sucker on the way home. And I must confess, I

was very scared about dogs in those days. And my sister, Neva, protected me. [*chuckles*] I remember things like that. But there were a lot of dogs running around loose. No one thought about keeping them on a leash in those days.

Hicke: And she was how much older than you?

Raven: I think a couple of years; I'm not real sure of that. I was going to get that information, but I didn't. Then, at the end of the first grade or about that time—that's when the Depression was really hitting about then; that was '28 and '29—and that's when we moved to this farm about fifteen miles away from Cadillac. Just before we got there, the little school right across the road burned, and so we went on a bus to school in Leroy, which was south of there yet, and we went there from 1930 to 1932. In fact, right at the end they rebuilt the school right across the road, and we could go right across the road to this school.

Hicke: These schools—were they heated by wood-burning stoves?

Raven: Well, I'm sure that the one right across the road before we came there that burned down, I'm sure that was. Because I'm going to talk about one later, up where we lived for years, which had had a furnace down in the basement, I think. But they burned wood in it. Farmers could get wood easily. So then in about 1934, when my father got a job in Cadillac again, we returned to our home in Cadillac. Then in 1934 or 1935, and I'm not clear on this, it was right in that period, my father and my mother bought a farm south of Cadillac, which you could do under Roosevelt's plan, and I know my folks paid for that for years. But it's a beautiful place. Today, my sister Ann lives there with her husband. Oh, it's a beautiful place. One of the houses that was built out of maple and very sturdy, and they've done a lot of decorating. The barn is still great. Beautiful lawn and big trees, and now there's a golf course right across the road. My folks would have liked it, because it's beautiful across the road with that beautiful golf course.

Hicke: Better than a housing development.

Raven: Exactly.

Hicke: Was the house there when your parents—

Raven: Yes. In fact the people who lived there were some Dutch people, from McBain. There were a lot of Dutch people. It was just beyond where my mother grew up. The father of that family had been cutting wood on a buzz saw and—a buzz saw has a big blade that goes around, and you push a jig into the saw—the saw broke and killed him. I believe, but I'm not sure of this, that we used our home in Cadillac as—I think they took that, so that was part of the payment on the farm. Then we got a loan from one of FDR's agencies, and my folks paid it off for a number of years until they finally paid it all off. At that time, when we started attending Stone Ledge School, it was eight grades with one teacher in one room with a furnace in the basement and a playground by a beautiful lake—Stone Ledge Lake. And it was about a two-mile walk for the Ravens. We had our choice. My father said we could have gone to Hobert School, because we were right in between, but we knew some of the people at Stone Ledge, so we went there.

Hicke: How many children were there?

Raven: I would say—I was trying to figure it out the other day, and I was talking to Kay about that—I would say there were probably between thirty and forty, something like that.

Hicke: One teacher and all eight grades. She had her hands full.

Raven: Yes. She had to do just the things that would be tested on. They had statewide testing, and that's about what she did. I never learned the alphabet until later. There were so many children.

Hicke: Did the older kids help the younger kids?

Raven: To some extent. Yes. Neva was a great help to me. My sister, Neva.

Hicke: You said Stone Ledge School had a furnace down in the basement. But that didn't burn down, did it?

Raven: No. That did not burn down. As I mentioned, it was about a two-mile walk one way from our farm. It wasn't bad, except in wintertime. That's great snow country. And we had some of the great ones those years. I remember men on WPA shoveling snow about a half mile from us down on the road that we went on. And we didn't go on it then because the WPA people were shoveling snow and they had a tier I

would say about the height of that wall above the door there where one group was standing—

Hicke: Twelve feet?

Raven: —and someone would shovel the snow up there to them and get it up to them—maybe it was a little shorter than that, because you had a long handle but—and then they would shovel it up to another ledge above them. Cadillac was quite low and is in quite a snow belt in that area—not just Cadillac, but that part of Michigan coming across the Great Lakes from the west. They would really get a lot of snow. I remember that. But in any event, that’s where we went to school.

That then takes us probably to high school. My sister had gone to high school the year before, of course, and she stayed with my grandmother and went to the Cadillac High School, which was a nice school—a pretty good-size school. Cadillac was a big lumber town, and the Mitchell family had built it, and it was a very nice school.

Hicke: Does it have something to do with the Cadillac car?

Raven: Nothing. Now, it might have something to do with—wasn’t Cadillac a Frenchman?

Hicke: Oh, that’s right. He was an explorer or fur trader [Antoine de la Mothe Cadillac].

Raven: In fact, I think he had something to do with founding Detroit, and the Cadillac name I assume came from him.

Hicke: Well, back to high school.

Raven: Neva’s first year, she was up with Grandma, and then I went up there for the first year. Also my cousin Leo Dunbar, who lived across from us, and my other cousin, Howard Dunbar, who was from another Dunbar family out in Hollister, and let’s see, I think there were a couple more of us. But my grandmother had a big house with a big upstairs with a lot of rooms, and that was a good thing.

Hicke: And she had all of you staying there?

Raven: Yes, she had all of us. Sarah Dunbar. She was a great lady. But then, at the end of my first year at Cadillac High, by that time we had moved out to the farm, and so we went out there, and nearby was Tustin, Michigan, where Kay, my wife, lived on a farm near there. We got school buses for our second and third and fourth years of high school, and we went to what was then known as the Burdell Township Agricultural School in Tustin, Michigan.

Hicke: That was a high school?

Raven: Well, it was everything. It was kindergarten and eight grades and high school, too. Yes, it was all twelve grades. So we would travel there on the bus and take the bus to basketball games and baseball games.

Hicke: Oh, the bus took you everywhere?

Raven: Yes. The bus was a great thing. You asked about my favorite subjects, and I took that to be in high school.

Hicke: Well, if you remember any particular ones in grade school, we could include those.

Raven: Well, I don't really, except they probably fit into these that I'm going to talk about now. I always liked history very much. I was a great reader. I read a lot. One time I was cultivating with this one horse, and I liked it when the newspaper, *The Cadillac Evening News*, came, so I would run down and get it. And my brother still says I got behind the piano and read that, and he saw the horse coming with the cultivator and the horse took the cultivator right into the barn.

Hicke: By itself?

Raven: *[laughter]* I think he was nice enough not to tell my Dad and whole family. But I liked history and I liked literature, American and English literature. And I liked shop, even though I was never that adept at it—I wasn't always that good with tools. Our superintendent was bound that he was going to build a better school. He started out by starting to build a small school for one of the first two grades. For example, we worked on making concrete blocks. That was part of our shop training—to make these concrete blocks that we used later for the foundation for the first and second grade school.

Hicke: That was very clever of him.

Raven: Yes, he was a wonderful guy. And then, of course, basketball. We had a great basketball team and a great baseball team, and we played other schools all around that were our size.

Hicke: Did you play?

Raven: Yes. My first year down there, let's see, I would have been a sophomore then, I became the center on the basketball team. And I played that position all three years, and then I played baseball. I played first base. We had some tremendous pitchers. We played some great schools, but I would say that the farm kids in that area were much stronger in baseball than basketball, although they were good basketball players, too, but they were trained in baseball. They played baseball all the time. Lots of them grew up with a brother on the farm, and they could play baseball. Of course, later on you could put up a basketball hoop, and you could do that, too.

Hicke: But you needed cement and—

Raven: You needed a lot of work, that's right. My younger brothers had it, but not the older ones, I don't think.

Hicke: You must have been tall, also.

Raven: I was tall. I was 6' 2", which is probably taller than I am now because I stoop once in a while.

Hicke: I just want to ask one more thing about the games. You said you traveled around in the bus?

Raven: Traveled in the school bus. They would come over to us. We had a very small gym for years—it was the town hall in Tustin, and you had to have a very flat shot at the basket. I mean, you didn't do a lot of up-in-the-air, arching ones—we always had the advantage against other teams.  
*[laughter]*

Hicke: You were more adapted to your own gym.

Raven: So, we were more likely to be playing people under the basket, and we'd feed them a pass, and they would go up and put a basket in, hit from the floor. But they were all very good athletes. They all worked at it. We traveled to these various schools. There was a McBain where there were a lot of Dutch people past where my mother grew up. Leroy was a school I attended later on when we had that fire in the school across the lane. There were probably ten schools about the same size. When my brother became principal and then superintendent many years later, most of those were consolidated into the one at Tustin. It was a huge school. I think they had about 600 students when he was principal and superintendent.

[End Tape 1, Side A]

[Begin Tape 1, Side B]

Raven: Kay and I were in school together.

Hicke: In Tustin?

Raven: Yes. She was valedictorian of our class. I remember that now. She has a tremendous mind. But I wasn't interested in girls in those days. I was interested in basketball and baseball. I was a year younger than the other fellows. Leo [Dunbar], my cousin, was probably a year older than I was, and I think Norm Smith was; Red Anderson may be a couple of years older. I was always the youngest in those days in my class. I don't know, I guess I got started in kindergarten very early or something like that.

Hicke: We haven't talked about the teachers you liked.

Raven: Influential teachers. Well, Mr. Vernon Johnson, this very short little man, who was the superintendent, also taught. He was a good teacher. Very good teacher.

Hicke: What did he teach?

Raven: Oh, I don't even remember that. Isn't that odd? I remember he was a good teacher. The same with Bill Shank. Bill Shank became our coach in the year that we all came down—the northerners came down to Tustin to high school in our sophomore year, and he came at the same time. He was our coach, and he was a wonderful person. For many years he has

lived on the Upper Peninsula. He was a very good coach. They were a couple of my favorites. We had pretty good teachers in our little high school. Adla Anderson, who I guess was the principal at that time. And there were a lot of good students. Kay was a very good student. And her brother, Dennis, was a good student. And I was a pretty good student. I think I finished fifth in our class. Kay finished far ahead, as first in our class. *[laughter]*

Hicke: Fifth is not all that bad!

Raven: Not too bad, especially when you're playing basketball and baseball all the time. We were the biggest class that they had ever had at Tustin High School. We had about forty, and that was the biggest class they ever had up 'til that time. As I said, they had grade school right through four years of high school at one time in the same building. Later on, of course, they had different buildings. They mostly came in by school bus, because Tustin was just a little crossroad. There were a few people who could walk, but most of us not.

We haven't talked, I guess, about outside activities and friends there *[refers to outline]*. A lot of my friends were on the basketball and baseball teams. We had a tremendous baseball team. Basketball was pretty good, but baseball was—they were noted for that. And I guess a lot of my friends were people that I already knew and who rode on our bus. There was my cousin, Leo Dunbar, who rode on our bus, but of course, I knew him before then. I mean, he didn't live far from us, and we would meet when we had Christmas with my grandmother, and the whole Dunbar family would come in. And then Norm Smith, who was a very good basketball player who was from Benson Corners. Norm Smith and Leo Dunbar have done very well. They stayed in that country.

Hicke: They are still there?

Raven: They are millionaires by many times. They both went into businesses and were very, very—well, they were very good people. And then another one who palled around with us was Red Anderson, who had been adopted by his parents. He was a wonderful guy, and they are all still living, which is pretty good for us—Leo and Norm and Red. Those are the people I can remember. Two of the women I liked very much—

one was Kay, who was right across the aisle from me, and one was a good friend of hers, Bev Smith. She came to the World Fair. Her grandfather kept them all, was a very wealthy man in the potato business, and he brought Bev and all of them out to the World Fair when it was over here on Treasure Island. All the rest of us in school were so jealous. *[laughter]* *[referring to outline]* Well, then the next thing you had down here for me is family and community life.

Hicke: Let me ask about your summers. You must have been playing baseball a lot.

Raven: Well, in the summers we worked on the farm. My father worked the afternoon shift, and he wouldn't get home—he was a hard worker—but he would get up in the morning, and he worked with the hired man and us kids during the summer, because we all had the whole day. Then he would leave for work. He was a good gardener, too. He raised a lot of sweet corn, and he always would pick sweet corn before he went, stop at the little store where he bought groceries, and he would trade sweet corn for that. Then he would go to his job, and he would come back at midnight. I think it might even have been one o'clock. He'd get up in the morning with us.

I used to say a little bit kiddingly, but probably quite accurately, I never saw my father sit down in a chair during those years and not go to sleep immediately. And my mother was a hard worker, too. But we ate very well. We had cows, and just to give you an example, everyone in those days would separate the cream—they used a separator—and most of them would drink skim milk. My father would never allow that. I mean, we drank whole milk. *[laughter]*

Hicke: The real stuff.

Raven: Right. He couldn't agree with people who drank skim milk. Of course, today, we find out that the doctors would say let them drink skim milk. *[laughter]*

Hicke: Now, what was your part in the farming?

Raven: Well, I worked with the hired man, and a lot of the hired men were people who had worked in the timber forests around Cadillac, and a lot of them were Swedish, and a lot of them were bachelors. But I worked



**The Raven Homestead, Cadillac, Michigan**



**Robert Dunbar Raven**



**Neva, Dean (in doll carriage), and Bob (1926)**





**THE RAVEN FAMILY**

**l-r: Dean, Clyde, Bob, Neva, Eugene  
Lois, Gladys, Chris, Ann**

*Ted wasn't born until after Bob was in the military.*



**Bob's Parents: Gladys & Chris Raven**



with the hired man, and until my mother and father died, they used to kid me about this. I helped the hired man build a fence one time, and when you build a fence, you put in the first post, but you have to line it up on a line so you know where to make the next one. Instead, he just dug the next hole. My father came back and immediately pulled all the fence posts out, because it was kind of like a zigzag. *[laughter]* Oscar Olson, I think his name was.

There were a lot of Swedish lumberjacks who had gone to these camps, bachelors, and stayed their whole lives. They didn't make much money in those lumber camps, but they worked awfully hard. These lumberjacks, of course, lived by themselves or worked on farms. They were wonderful people by and large.

Hicke: So, this was Oscar Olson, did you say?

Raven: We had an Oscar Olson. We had a number of them, because we lived there for many years. When my father worked in town, we always had hired men, and my father worked in the fields, too. He would get up in the morning, and he worked right with the hired man, and then when he went to work, it would be up to the hired man and us to do the evening chores, and so forth.

Hicke: You said you always ate well. Do you remember any particular favorite foods?

Raven: Yes, we always ate very well. My mother was a tremendous cook. The Pennsylvania Dutch—I don't know. She would make an upside-down cake that was just tremendous. We always had great food. Great dishes, every dish she made. I didn't think I would like onions, but she would get these small onions and make an onion soup that was just tremendous. And we always had meat. My dad was a great believer in that. Well, later on, we had our own, but he would always get good meat.

In fact, on Sundays, I can still remember this—my father would sometimes have me help, and we would capture two roosters out in the yard. Then he would behead them, and of course, my sister wouldn't want to be around, or my mother, at that time. But these would be young roosters, and so we would always have chicken for dinner.

Hicke: And it was fresh!

Raven: It was fresh—we would have chicken for dinner that day.

Hicke: And fresh corn?

Raven: Oh, yes. My father and mother had tremendous gardens. Big gardens. And they grew potatoes for themselves. In fact, I was in the 4-H Club, and I won a first prize at the Cadillac Fair where I showed my Katahdin potatoes. I grew a half-acre of Katahdins, which were unknown in Michigan at that time. Not unknown, but they were a Maine potato, as I understand it. They were a very white potato. Kind of a long, white potato. My dad helped me put in a half-acre of those for 4-H. I pulled the weeds and sprayed them and kept good track of them, and I got first prize on the Katahdin. *[laughter]*

Hicke: Did you get to eat any?

Raven: Oh yes, we ate them. My mother was great at baking potatoes, and you would cut them open and put a little butter on them. Or she would mash them—she was great on mashed potatoes. She was a tremendous cook. Everyone said that. All the Dunbars were good cooks. But she was the star. *[laughter]*

Hicke: And I had one more question about school. You said you had very good teachers. I'm wondering if they gave you a lot of homework.

Raven: They were very good teachers, except maybe the one at the Stone Ledge School, which I know was at a critical time, but in fairness to her, to have forty kids all grades—it was just incredible. Some of the Tustin ones did, but I don't remember doing a lot of homework when I was going to high school.

Hicke: Yes, you had basketball and baseball and—

Raven: Basketball and all that. And then I loved to listen to the radio. We had a radio, and I would hear late at night “high atop the Berkeley Hills from the Hotel Claremont,” and I forget the band leader—he was a famous band leader [Les Brown & His Band of Renown]—and I thought that

was great. "High atop the Berkeley Hills at the Hotel Claremont."  
*[laughter]* Isn't that something? No wonder I finally got hooked on California. As I said, I loved to read. You would find me behind the piano sometimes reading when I was supposed to be out pulling weeds or something.

Hicke: What did you read besides newspapers?

Raven: We had the Bible in, I think, both the Old and New Testaments in both the Bible and a book built around the Bible. I read that all through. At one time I claimed I was going to be a minister, and of course, that made my grandmother very happy, but I was very young. But I read that whole book. I like to read. I've always read, and I still love to read.

Hicke: Did you read the *Hardy Boys* and things like that?

Raven: No, a lot to do with the Bible because my folks had others around. Then we had a Victrola that played records. You had those big, heavy records and the Victrola, where you could turn the head over and it would play these big, heavy records.

I remember one called *The Old Black Crows*, and this one fellow said to the other fellow, "I've got"—it's amazing how I can remember this; I remember this of all things—"I've got a gun, it's the best gun in the world,"—let's see, how did that go now? I think he said you could shoot it around a corner. *[laughter]* Isn't that something? You are probably too young to have heard about the Black Crows. They were a very famous singing group. A lot of our records were theirs. And we had a lot of waltzes and all of that. And as I say, I listened to the radio on the farm. It wasn't a bad life for kids.

Hicke: No, it sounds wonderful. You had plenty of company!

Raven: I had a lot of company!

Hicke: Did you have enough privacy?

Raven: My brother, Edwin Dean, Dean we called him, had a terrible temper. I think one time my mother saw him chasing me with a pitchfork, so she said I had to be careful. *[laughter]*

Hicke: What about other relatives?

Raven: Let's see, my dad had relatives there, he had his folks, he had three sisters. One came and lived with us when she was going to high school, Olga, who still lives out in Nebraska. And we would go and see our uncles and aunts, and they would come and see us. A lot of them lived on a farm. Some lived out by Hollister and some lived over by Hobart. Some lived down 131, as we called it, the big concrete road, down in the Osceola County. And we would go there.

Of course, we would all get together for Christmas. But I would go to their farms, too, when we were in town, but sometimes even when I was older. I would spend some time over at Uncle Harry's or Uncle Otis's farm, and we were all big families. My mother was the baby in the family of the Dunbars, and so they all loved Gladys and also her kids were—maybe they got a little special treatment, I don't know. But it was a big group. Birthdays were a big thing then.

Hicke: Fourth of July?

Raven: Fourth of July, yes. Armistice Day, when the soldiers marched, a lot of people would come to Cadillac, and they would have the big march. Cadillac was a town of about 26,000 at that time. It has always been a town since the beginning of time, I think. In addition to the regular school, they had a Catholic school there. In fact, the Catholic church ran the hospital. A very good hospital. Excellent hospital. Although they would be a minority among all the Scandinavians that lived in Cadillac.

Well, let's see. I told you about going over to the uncles and aunts, and then the cousins would get together and play. Leo Dunbar lived probably a mile and a half from us. In the winter, we would go ice skating; there was a pond on a farm in between us, and he'd come over, and we'd go there and ice-skate, play baseball and things like that.

Hicke: Sounds like the classic ideal experience growing up.

Raven: It was good, yes. This was during the Depression, so in a way, that might have made it better, because we couldn't go traveling all over the world. You played with your neighbors and your relatives around there,

and it was pretty good. My dad and mother had always been good Republicans until Roosevelt came, and then after that, Roosevelt was a big hero in that country, but it was a strong Republican place and probably still is in some ways. I used to always like it that way until I went to college and met some Democrats.

Hicke: Conservative?

Raven: Not after college. Well, there was a very wealthy family, the Mitchells, that had a beautiful home on the hill that had the big lumber mill. They were well known, and they should have been. They gave the library right across from them, where my sister and I used to go get books, the Cadillac Library. They did a lot of things for the city. And with that many brothers and sisters, you always had something to do. We used to go hunting. Now, we did go hunting with slingshots and such, but my father never allowed a gun on the place. And it wasn't until I married Kay Erickson that—her family always had guns, and Kay was a tremendous shot. I remember down there one time when she first got out of the Marine Corps, and she picked up the pistol, a .22 pistol, and knocked a can down the driveway. *[laughter]* She's still a wonderful shot. She's a much better shot than I am.

When I came back from the service, and before I went down to Michigan State, I started hunting. I bought an old hex (hexagonal) barrel rifle—I can't even tell you the caliber now, but it was pretty big. I guess my dad wasn't that happy about it, because I had to keep it in my own room, as I recall. I think that was when I started hunting. We used to go fishing. We'd go over to Stone Ledge Lake fishing, or there was a creek right down in the woods below us. We did a lot of fishing as kids, we didn't hunt as kids because we didn't have guns around. Of course, I think it was a good thing.

Hicke: Absolutely.

Raven: There was always somebody getting shot in a family with guns, it seemed like. So it was good. My father was a very smart person.

### More on Family

Hicke: Let's talk more about the kinds of things that they taught you and the traditions that they gave you.

Raven: They sent us to Sunday school, but not so much when we got out on the farm, because that was quite a chore at that time.

Hicke: What kinds of values did they emphasize?

Raven: They were very strong on that. They would talk about that, and my father was especially strict on that. You couldn't pick up anything that belonged to anyone else, and—he would talk about those things.

Hicke: High moral standards.

Raven: Yes, very high moral standards. My folks never drank. Most people did in those days—a lot of people did—but there was never liquor around the house.

Hicke: What kind of religious training did you get?

Raven: We went to the Methodist church in Cadillac, my sister and I, and I guess Dean probably went to Sunday school class. But then when we moved, when we got the farm, that was a big chore, with seven kids and my father working like he was. I don't think we went in to church then. I don't know. That's interesting. I'll have to talk with my brother Dean about that or my sister, Neva. I was going to call Neva, because Neva has got a good memory and she would remember. But I remember going to church and my dad picking us up.

Hicke: How about education? Did they stress that?

Raven: Oh, yes. As I said, my mother had been a teacher—taught in the same kind of school we went to at Stone Ledge. They were great believers in education. My father was very prophetic in many ways. He said, "Bob, during your time, the women will be working, and the children will be kept in a big building together."

Hicke: That certainly was prophetic.

Raven: I remember we talked about that. This was when I was just a kid.

Hicke: He didn't have time to read, you said.

Raven: When we got home, my mother would get upset. You see, sometimes I would meet him in town, or once in a while he would get an extra job—

the creamery had these big coal cars come in for fuel and he could get the job if he wanted to of unloading those and making money out of it—and I would go and help him quite often. We would unload a big coal car. So, I was around him a lot. He would go fishing; sometimes Uncle Harry would come over and we'd go fishing. But he was such a hard-working man. And he was a good teacher.

*[Following story told to Eileen O'Hara:*

Harry was out in Washington state for a while when I was a little kid. When he came back, my Dad and Harry and I went fishing up at the dam one day. And they got to talking, and they talked about that trip that Harry took up there. Dad said, "I seem to remember you told something about a big fight there." "Yeah," Harry said. "It was a war, a real hell of a fight. But I jumped into the closet, and I came out all right." My Dad told me later, "I'll bet he started it.]"

My uncle Harry was a great, big man, and I remember his coming over to help us with the haying one time. In those days you would have these shocks of hay. You would mow, and then you would rake it and put it into shocks. Dad said to me, "Now, watch Harry. He will always put the [pitch]fork right in the middle of the 'cock of hay,'" he used to call it. Sure enough he did, and he broke one fork there, but my father would always put the fork way on the other side and then he would swing it out. He was not a big man. He would swing it out and put it up on the wagon and haul it into the barn.

He could dig more potatoes! He dug them with a fork. A lot of people in those days would pull them and dig them with a potato hook. He had a tremendous way of doing it. With potatoes you have a lot of foliage there on top, and he would always go down with a fork down across his knees, and he would reach in with the left hand and get all that foliage, and then he would bring that fork down over his knees and at the same time be pulling to bring the potatoes up. I mean, he was so good at it. I saw a lot of people dig potatoes. A lot of them would dig them with a hook, which was all right, and a lot of them had diggers by that time where they would come into the field and dig them. But no one could dig potatoes like him. Or no one could lift a shock of hay like he could. I mean, he was not that big, but he had big kids. He wasn't a little man or anything, but he wasn't the size of any of us as we grew up.

Hicke: What about your mother? What do you remember about her?

Raven: Well, my mother, as I said, was a tremendous cook. Very hard worker. And loved to read, and I think we picked that up—a lot of the kids in the family—from her. And my father was unlike other fathers in another way, and my sister and I talked about that recently. He couldn't do this if he was in the town working, but if he was home at supper, why he would even jump in and help her do the dishes. A lot of dishes for a big family.

Hicke: Yes, I'm sure.

Raven: But I never saw another male relative ever help with the dishes. They had a tremendous relationship. After he retired, they were very fortunate; for many years they went to Florida every winter. They had a nice little place down there. In fact, he died in Florida. That was too bad, because he became very old down there, and I wished he had been at home. My mother was a year or two older than he was. She lived to be 87, I think it was, and he lived to age 83 or 84, so pretty good for those days.

Hicke: Where did we leave off in your notes?

[End Tape 1, Side B]

[Begin Tape 2, Side A]

### Early Work Experiences

Raven: Do you want me to talk about part-time work experiences?

Hicke: Yes.

Raven: Well, the first place was in the summer when we were out of school; it wasn't part-time. It was full time. I remember being with the hired man; we had a 40-acre farm that was way over on 131, the big highway. It was about two or three miles from us. We would grow hay over there and have cattle over there. Dean and I were loading hay on the hay wagon, and it got to be very late at night, about 10 o'clock. We had a team of horses, big Belgians. It must have been dark when we were ready to go home. I remember we were so tired, and I went under the wagon to hook that chain, and I got the chain hooked, but the next thing

I remembered Dean was under there, and he was pulling on my heel. I had gone to sleep. *[laughter]*

It was hard work, but it was good. There was one point there where we stopped having a hired man, and Dean and I were big enough then to cultivate. Yes, we helped a lot.

Let's see, I guess that takes us to this part-time work. We helped our hired man; we also did it ourselves. But we did other things. Traverse City, which is up on the bay of Lake Michigan, is one of the great cherry areas, and they have this huge festival every year. A lot of us would go up there. My sister and I and Dean would go up there and stay for maybe a week, and they had tents, and we would pick cherries. We got paid for it and so forth, but that was good. That was a great excitement too to go up there and eat a lot of cherries at the first part of it. Then the Johnson Farm right across the road from us, they always had very big strawberry patches; they grew them commercially. They also had big raspberry patches. We would go down there and work a lot. We would pick raspberries and pick strawberries. We got a price—it wasn't a huge price, but we got so much a box.

Hicke: Any recollection at all as to how much?

Raven: I don't have any. I doubt if we made a dollar a day. If we did, we were probably flying. Probably more like 75 or 85 cents or something like that.

Hicke: It probably wasn't a big cash economy, was it?

Raven: No.

Hicke: Like you said, your father traded sweet corn for other foods.

Raven: Yes. We always lived very well. We always lived very well. Had a wonderful cook, so—My dad raised very good sweet corn, as I've said. My mother would cook it in one of these boilers, about this high.  
*[demonstrates]*

Hicke: About a foot high.

Raven: One of those where they used to boil clothes in that thing. My mother had that full. It's hard to believe, and it's still a quarrel around the family whether it was twenty-three ears or twenty-six ears, but we had a race to see how many ears we could eat, and each of us ate something like twenty-three ears. This was wonderful corn.

Hicke: It's really good right after it's picked.

Raven: Oh yes! When it's still hot, and we had a lot of butter to put on it.

Hicke: How did you feel afterward?

Raven: Oh, I don't know, my cousin Wayne and I were pretty good eaters. We probably didn't eat anything else.

Hicke: After all that sweet corn, I can believe it.

Raven: So, we did those kinds of things. I mentioned earlier that I was a member of the 4-H, and the 4-H would have some very good activities. For example, you could talk to your father about it: that year that we bought some Katahdin seed potatoes, and we put in a half acre of those Katahdin potatoes, and it was up to me to knock the bugs—the potato bugs—off during the season. I guess my father had the hired man spray them once or twice, too. And then I had to hoe it and keep the weeds out. We had some wonderful Katahdins, and then we could take them to the fair. I took mine to the Cadillac Fair, and I won first prize on Katahdin potatoes. My dad was real proud of that, I think. We had a lot of 4-H activities. We raised young calves. The fair at Cadillac that came along late in the fall was a big event. And they had a great fairgrounds. They would have racing and all of that, so it wasn't just exhibiting food stuff. It was a great thing to go to. And then Manton, the town up above, had a Labor Day Festival, and that was a great thing to go to. I guess my father, when he was growing up, did that. They would put up tents just like a circus, and there would be people there; there was a lot of that. So you would see your relatives there.

Hicke: How about swimming? Was there a place to swim?

Raven: Well, there really wasn't. We did not learn to swim around that time. But my dad was very tough on that anyhow, because there was Stone Ledge Lake, and there was another lake, and every summer some kid

would get drowned. It was just amazing how often I went to funerals. They would fall out of a boat, or else they would go out there by themselves and really weren't that good swimmers, and they would go out too far. So he was very—as I said, he wouldn't tolerate guns around when we were growing up.

Hicke: Safety-conscious.

Raven: Yes. Yes. And he would try to teach us how to do things. He was very good at doing things. He was not a little man, I don't mean to suggest that, but up against mother's relatives, he was quite small, because she was from a tall family. Harry was a big man and all that. I don't know if he was always conscious of that, but he was the best at doing anything.

Hicke: It sounds like he was very well coordinated.

Raven: Tremendously well coordinated. It was really kind of magic to see him put a cock of hay on a wagon or to dig potatoes, because it was just beautiful motion. I could see that arm go through the air and grab the tops of the potatoes and gather them into a group, and come down with his hand over his knee. I think he kind of worried about his sons not having much coordination. I think he thought it was amazing that we could make sport teams at school. While I wasn't the greatest hitter going, I wasn't bad.

So that was pretty much the activities growing up on a farm. When you throw your school things in with it, why, it was a lot. There was plenty. In the winter time we'd go over to a good pond that was right over between us and Marines, and we would go over there and go ice skating. There was a lot of skiing. Right in the middle of our place there was quite a big hill for that country, so you had some hilly terrain there.

Hicke: No lift, though, I bet.

Raven: No. But there was a lift at Caberfae ski area. I don't think I'll ever—we went out to watch it a couple of times. Caberfae was west of Lake Mitchell and Lake Cadillac. See, there were two big lakes. . .

Hicke: Is that a town or a lake?

Raven: Well, there were both things. Cadillac was here, but the big lake next to it was the Cadillac Lake, and then there was a channel that had been dug out at the park over to Lake Mitchell, which was even larger. Mitchell was the family that owned all the timber and so forth. Lake Mitchell and Lake Cadillac were quite large lakes and very good fishing. And they were good in the winter, too, especially Cadillac. I don't know if they put shanties out on Mitchell, it may have been too big. There were ice shanties all over Lake Cadillac in the wintertime, and I think you could spear pike—you could also bait them—but I think you could spear pike through the ice. For some reason, I never really got very involved in that. My dad had been a good fisher. But I went up with my Uncle Harry and Dad a couple of times to this big dam. On the spillway at certain times of the day they would cut the water down and you'd get suckers. Now suckers were not bad eating fish. They were pretty big fish. But every once in a while we would get a rainbow trout, too. I don't know if you were supposed to get the rainbow trout, but boy, rainbow trout would be about like this. [*demonstrates*]

Hicke: Two feet?

Raven: Oh bigger! Yes, they are a big fish. A big rainbow trout that has been in good streams would be a big fish. I probably exaggerated, like most fishermen, but those were big fish.

Hicke: Good story.

Raven: Yes. What we would do up there, you could put them in a gunny bag or a sack—we called them gunny bags in the farm country—and then we would bring them back, and we'd clean them and had a lot of good fish.

Hicke: Yes. That sounds great.

Raven: Well, that was what my Dad and Harry both liked. There was a spread that you could put on sandwiches, and it had a terrible odor to it—

Hicke: Like it was part mayonnaise and part pickles?

Raven: No, it was just a—I forget what it was called. But I never cared for it, but they loved it. I think we've talked about family get-togethers. There were a lot of short trips to visit family on Sunday. We would go over to Harry's or we'd go over to Clayton's, or we'd go down to Aunt Emma's,

or we would all gather at Grandma's when she was alive, but when she wasn't, why, we would be going to each other's places. There was a lot of that, because there wasn't all that much to do in Cadillac other than go to church on the weekend or Sunday, and so that was a great time, and the kids would play, and all of us would get together. Quite often our Aunt Cele would be up from Chicago. She was the one with all the money that gave us a lot of presents. Our Aunt Lil would come up from Lansing with her husband John, and they would bring their kids up. My Uncle Truels from Detroit and my Uncle Mike from Kalamazoo—they all loved to fish, so they would come up. We would see a lot of our relatives in the summertime. We didn't see so many of those from out of town during the wintertime, because that's the snow belt.

Hicke: Yes. Travel is terrible.

Raven: Terrible. But thinking back on it, I suppose that was during the Depression, some part of it. I heard my dad hold forth on that one time, about the Depression is a terrible thing and how he lost his wonderful job and so forth, but he said, "On the other hand, I think it's brought families closer together."

Hicke: Yes, because they needed each other.

Raven: And not just the center family but the big family, the family of brothers and sisters, aunts and uncles, nephews and nieces, and so forth. We had a lot of them on both sides. [*chuckles*]



## II. MILITARY SERVICE: U.S. ARMY AIR CORPS, 1941-1945

### Joining the Air Corps

- Hicke: Now I think that brings us up to when you graduated from high school.
- Raven: I was seventeen, and I wouldn't be eighteen until September 26.
- Hicke: Which year did you graduate?
- Raven: In 1941. I'll come up to that. My cousin Leo and I didn't go on the senior trip. That wasn't for us. Kay went. We went to the big city, Lansing, and we got jobs down there. I was still seventeen, so to get a job I had to fudge a little bit. Leo and a number of people—young guys from Cadillac, that I knew, Norm Smith, Red Anderson—went down to Cadillac Motors in Detroit in the summer of 1941. Cadillac Motors—they were still making cars there, but they had something there called Boys Town, where they were making Allison engines for Allison Aircraft Engines in England. We'd see them out there in the shop, where someone with a big brace around his neck, because he was working on a stamping mill, and you know the only way they could be sure they weren't going to get a hand under there, they had chains. That was kind of new to us.
- Hicke: Where was this?
- Raven: This was in Detroit at Cadillac Motors. I suppose Roosevelt probably had something to do with it. But I couldn't do it until I was eighteen, so I had to stay in Lansing until my birthday.
- Hicke: You were too young?
- Raven: Until on September 26, when I became eighteen. I immediately went down to Detroit, and I went on in, and they wanted to put me on the day shift. I said, "No. I don't want to be on the day shift. All my friends are on the evening shift." They called a big group of people. "There's a guy that doesn't want to go on the day shift." *[laughter]* So I got on the afternoon shift at Boys Town there, and that's where I worked. I was in there that Sunday afternoon and we didn't hear until Sunday afternoon, about the attack on Pearl Harbor.

Hicke: December 7.

Raven: Yes. It was a Sunday, and we worked Sundays, and I was in there, and I found out about it when I was working on crankshafts, Allison crankshafts, they would be. I remember when the news came.

Hicke: Did you have a radio?

Raven: No, you couldn't have a radio there. But they put it over the speaker. They thought it was interesting enough, so they put the radio on the loudspeaker. That's how we found out what was happening.

Hicke: What was everybody's reaction?

Raven: Well, you know, "God, this is terrible." So it wasn't too long after that, that I enlisted, and there were so many people who were enlisting. I'll talk a little later about why even though I was accepted, I didn't go for quite a while. But I enlisted in the Army Air Corps. I wanted to be a cadet, and I remember getting on this train coming from Michigan finally, and they were all college kids, and they had had military training at Michigan State and Ann Arbor, and they all knew how to march and all this, and I didn't know any of that.

Hicke: They were probably ROTC—Reserve Officer Training Corps.

Raven: Yes, I think they were. So I was kind of out of it; I was a kid of eighteen then, and I remember there were so many people enlisting, and you didn't go for about three months. I went down there to San Antonio, and a bunch of us got washed out of flight training, and we were told we could try again. Frankly, I've always thought they had so many people heading there that they could not use all of them at a given time. But it was a very glamorous thing, to be in the air corps, you know, because by that time I was in the air corps. It was a glamorous thing to be flying, you know, so that was a great attraction—San Antonio was a great attraction.

So instead, I went over to the basic training in the air corps at Shepherd Field, and finally I was sent along with some other people—a very fortunate thing—we were sent to a little college, a women's college in Oklahoma, and we were to become experts in aircraft engines, all aircraft engines for fighters and bombers. So we weren't just going to be

airplane mechanics, and everybody used to tell us that. “You’re not going to be just airplane mechanics; you’re going to be engine specialists.” And that’s what we did.

Meanwhile I talked to them about the cadet training. They said, “Well, hell, you can apply again,” so I went to some place in Oklahoma. It was outside Oklahoma City, and I took my tests all over again, and I passed. And they said, “You’ll have to wait, and you’ll have to go from this district.” Well, that was the rub, see. And all at once, I was out of school, and I was on my way to Fort Dix Army Air Base (not in my district), and so I had lost my chance again [*chuckling*]. I said the hell with it, and I went to work on the line out there. I was probably there at Fort Dix Air Base for a year. What they were doing was they were sending a lot of planes overseas, and we would keep those planes in good shape. A lot of the women pilots were bringing the planes in, the smaller planes. And there were a lot of planes for generals and like that. Beautiful little planes, and they were going out on board a ship and go over. They had to be kept tuned up and all that. We were doing that.

### Gunnery Training, Then B-24s

I was there for quite a while. I don’t know if it was a year or not. It could have been. Maybe more than a year. That’s when my brother, my youngest brother, was born. My dad called to see if I could come home on a three day’s vacation, so I did. When I got back to Fort Dix, I hurt my hand reaching in behind a—There’s a big engine; there are two rows of cylinders, and you get a spark plug on both sides, and you get one a little back. It’s a terrible fit, and I really cut one of my hands open. For years, I had a scar. Someone sewed it up, but I got it infected around all the grease and so forth. It was pretty bad. So the doc sent me to the base hospital, and there was a wonderful guy there, the physician, that took care of it. He said to me one day, “What are you doing working out here on these engines?” He said, “You ought to be a gunner or something like that. Don’t you want to be an aerial gunner?”

I said, “I wanted to be a air gunner but I’m too tall. I’m 6’ 2” and you can’t be 6’ 2”.”

“I can get you a waiver, and I can have you in Tyndall Field, Florida, in six days.” I said, “If you can do it—you do it.” In six days, I was in

Tyndall Field, Florida, and training to be a gunner in a B-24—So I was going to be an aerial engineer gunner.

Hicke: I suppose you can't be tall because you'll be in a cramped space.

Raven: Well, I can understand it now—the belly turret. Of course, in the Pacific we didn't even fly B-24s with a belly turret. We had guns mounted in a Plexiglas turret there because we flew at a low altitude, but I wouldn't be in a belly turret anyhow. I would be in the upper turret really as an engineer or if I wanted to fire a waist gun. Height didn't mean that much. In fact, it was kind of crazy. Hank Kaminski on our crew was taller than I was. I let him fly the upper turret because I didn't like it. And the pilot didn't like me there. He wanted me having the waist gun so I could tell when the wheels were down and locked and I could tell how the plane was performing and so forth.

Hicke: So you went to Florida.

Raven: I went to Florida. It probably took a couple of months, and I don't know if I got a leave after that or not. Eventually, I might have gotten home for a short stay. Then I was told to report to March Field, California, and that's where I met my crew. There were four officers—the pilot, [Bill] Wehrly; the co-pilot, [Richard] Zaff; the navigator, [Dean] Waddell; and the bombardier, [Miles] Fetterman. And there were six enlisted men, and the NCO-In-Charge was Raven, the engineer gunner [*chuckles*]. Joe Maloney (radio operator and gunner), Reid Miller, Otto Mills, Don Whetstine, and Hank Kaminski.

Two of us could become tech sergeants, five-strippers. That was the engineer gunner—myself—and Joe Maloney, the radio man. The other four were gunners, and they were four-strippers, I think they called them. So you had one in the nose turret, one in the upper turret—it should have been me, but the pilot and I liked it better to have Kaminski, and he liked it better there—in the upper turret, then you had the two waist guns, and then you had the tail turret. You didn't have a belly turret like you did in Europe. In the B-24s in England, you would actually have some guy down in the belly turret, and it was the worst place in the world. About every flight that came back, they washed someone out of that belly turret, they told me in England. Because a lot of planes over there flew at 20,000, 25,000 feet—they flew very high—so the fighters would

come underneath. We flew at about 10,000 feet and maybe even less, so you didn't really get fighters coming underneath very much, so the belly turret didn't mean that much.

We packed our big box of C-rations, and the other gunner in the waist put them down on top of the guns in the belly turret, and it got hit with flak, terrible flak one time. It came up through there, and that stuff went all over. We had groceries all over the plane. Luckily, it went right up beside—I think it was Joe Maloney who was standing at that gun. We would trade off guns sometimes. I think it was Maloney. That flak went out right by his legs. We had sugar and Spam all over. But that's all that happened. [*chuckles*]

Hicke: Better losing C-rations than yourselves.

Raven: That's right. I guess I shouldn't get that far ahead. I really haven't talked very much about the training at March Field, have I?

Hicke: Let's go back to that.

Raven: They had a lot of B-24 crews there training. They would send you out on these missions, and you'd go out usually as a group. Well, at one time, we got off, and we had trouble, and we had to come back, and we went by ourselves.

Hicke: These are training missions?

Raven: These are training missions. You'd go out in the desert, and our bombardier in the United States was tremendous. He could knock those target shacks down in the desert to beat hell.

Hicke: Which desert?

Raven: It was the desert out by Palm Springs. It was in that general vicinity. We'd go out over the Pacific Ocean at times. They liked to have us get used to that. That was for the navigators. But in the desert they would have little shacks, we called them. There was another name for it down there. Our bombardier was very good during our training period. Boy, he would hit those shacks and blow them out of the desert. And then we would have a gun camera. You wouldn't have bullets in your guns, but you would have mounted cameras, and you would have fighter planes

come and make passes at you so you would have film later on, you know.

Hicke: To see if you would have hit them.

Raven: Yes. There was one time when we got out and had to come back, the rest of the squadron went on, and we got up in the air, and they told us to go on down to this fighter base. It was near Ontario, California. They said they wanted to get it on camera. They wanted to make attacks. We got down there, and they had seven tremendously good fighter planes. Well, they lined up on both sides and started making passes at us, and we were shooting this gun camera. I remember when we got back to the base with the pictures, and we went in to watch them. The co-pilot had a fit, because—you're up in a turret as if you were shooting toward the tail. You have two guns on it, of course. One had cut out as it got to a rudder, and the other would cut out and then the next one would cut out. I think it was the same way with the tail and the nose guns; they would cut out if you got in places where damage could occur. But the waist guns were different. If you were not careful, you could shoot the tail off the plane.

[End Tape 2, Side A]

[Begin Tape 2, Side B]

Raven: We were using a gun camera. Our co-pilot was mad later on when he saw our guns in the waist showing on the camera as going right through the rudder. [*chuckle*] I don't know if he's responsible, but shortly thereafter they put steel frames on those waist windows so you couldn't swing the waist gun far enough to endanger the rudder.

Hicke: You would have shot your own tail off.

Raven: Eventually, of course, they sent us overseas. We trained here for a couple of months, and then they sent us up to Hamilton Field. Then we were going to go overseas, and we would be taken by commercial airlines, the big planes. And we could go to San Francisco every day. All we had to do was report in at Hamilton Field at six or seven in the morning, and then we were loose until seven the next morning. We would come over to San Francisco. Joe Maloney's father, Pete Maloney, owned the Atlas Pharmacy at 220 Stockton Street, across Union Square from the St. Francis Hotel. He and his wife, Eileen, had

us out to their home—the whole crew. We had a wonderful time out there.

Hicke: Where did they live?

Raven: They lived in the Mission District of San Francisco in a very nice area. And we went out there for Thanksgiving dinner and had a wonderful evening. I always remember Joe's aunt, May Vella, told fortunes, and she told mine, looking at the palm, and she told me, "You're going to be very, very wealthy very, very late in life." I keep telling Joe I'm still waiting. *[laughter]* I'm still waiting. She was great. We had a great time there that night.

### Duty in the Pacific

Raven: Then finally we got the word to go over to Hamilton Air Force Base. We went out of Hamilton airfield on a DC-4, an Air Force passenger plane headed to the Pacific. [On 11/26/44, at 3:00am] I remember our officers got a little upset, because we had our orders, and they said, "Do not open until—I don't remember how far—at sea." I don't know if it was three miles or five miles or something like that. We weren't off the ground when Otto Mills, the nose gunner, and someone else—they said, "We're going to New Guinea." Maloney said, "How do you know that?" Mills said, "It's right here."

Hicke: He had slit the orders envelope open?

Raven: Yes. We went to Honolulu, Canton Island, Guadalcanal, and finally ended up at Biak [on 11/28/44], which was an island in the north of New Guinea. I don't know why they sent us there, because the battle was going on on the island. In fact that night, while all of us were at the movie (you know, a screen that they put up in the jungle there), there was an officer in his tent writing a letter to his wife, and he heard a noise, and he looked around and a naked Japanese came out of the jungle, cut the tent open, and he stepped through the opening. Of course, our guy had his gun belt, and he whirled around and killed the Japanese.

Pretty soon we were out of there. Then they sent us down to Nadzab, New Guinea, and then we went on training missions. We didn't know where we were going then. Probably the pilot knew but didn't want to

tell the rest of us. Anyhow, we went down, and we flew these missions out of Wewak to Rabaul and other places near New Guinea. On Wewak, three of the gunners on our crew were in one tent and the other three in another tent. My group was in a tent with two gunners from a B-25. One day, both the B-24s and B-25s went to a bay in northern New Guinea on a bombing raid. When our crew returned, our B-25 buddies weren't in the tent. And they didn't come back to the tent till the next morning. They finally came in, and we said, "Where the hell have you guys been?" They said, "We got shot down." When they went up to a bay in northern New Guinea, they flew the west side of the bay. The Japanese had guns on the east side. But the Japanese had moved the gun from one side to the other side, and they got them. They went down out there in the bay, and our people sent in a jumbo seaplane, you know, with pontoons. They went in and picked them up.

So we then got our orders. We went down to Darwin, Australia and there we joined the 380th bomb group [529th Squadron], and it was actually the only group that became part of the Royal Australian Air Force for a while. And we were right at the top of Australia in Darwin. Darwin, you see on the map, is right up there. *[points]*

I've got to stop and tell you a little story about this. Here we are at Darwin. I can't tell my folks where I am. I think you could tell them you were in the Pacific or something about the general area. So I had to let them know some way. There was a guy in high school, that first year I was in Cadillac High School, named Darwin. I didn't know him very well. But anyhow, I said in my letter, "I wonder where Darwin is at this time?" I thought maybe they would catch that. I didn't think they would try to look up Darwin, but my mother was pretty good on geography and might think about Darwin in northern Australia. She sent a big letter back. They had run down Darwin *[laughter]*, and he was in the service some place.

But anyway we went to Darwin, Australia. It seems to me it was getting pretty close to Christmas. I can't even remember the year, but I believe it was 1944. I should talk to Maloney about that. They didn't fly any more missions out of there. They let our crew—the pilot, co-pilot, navigator, and engineer gunner (myself), and the radio operator—fly the fat cat, a stripped down B-24, to Adelaide to bring back food, beer, and so forth. So we got to go down there [2/18/45]. We had a great time.

That ship we brought back was named “Beautiful Betsy”. A week later, someone took it out. Someone had gotten married on the base—a Red Cross girl, I think it was. They took that out, and it disappeared, and it was only in July of 1994, 49 years later, that they found that plane. It had crashed into a mountain not too far from Brisbane. They found the remains of it.

The stripped down B-24 we flew to Adelaide didn’t have any guns on it. We put wooden planks over the bomb bay doors so we could load up a lot of stuff. In fact, one Major from our group, long before we were there, had a girlfriend in Adelaide, and so he went down to buzz her, and he pulled the aircraft up, and the boards in the bomb bay gave way and the food and stuff was scattered all over Adelaide. I think that Joe Maloney has an article that is out of the Adelaide paper about this. *[laughter]* Must have been quite an embarrassment for the Major.

Hicke: Do you want to continue for another fifteen or twenty minutes?

Raven: Sure. Well, at the same time, these fights were going on, and the Navy was going on hard in the Philippines. There were big sea battles. I think we may have spent Christmas down there. It must have been in early 1945 [3/5/45], we went up to the Philippines. Our group, the 380th bomb group, the 90th bomb group (the Jolly Rogers), and I think one other bomb group—I forget which one it was—went up to the Philippines. The Jolly Rogers and the 380th went to Mindoro. Mindoro, if you look at the Philippine map, is right below Luzon, and it’s over on the west side as you look at the map. It was kind of a farming island and a lot of rooster fighting and so forth. The Jolly Rogers’ airfield was called McGuire Air Strip and was quite near the ocean. They had a former PR man from Hollywood in their group, and as a result, they received great publicity.

We were stationed inland at the Murtha Field, and flew most of our combat missions from there. We flew from Murtha Field to French Indo China, Borneo, China, and Formosa, which was heavily fortified and was a huge depot for *kamikaze* planes, shipping, and supplies.

Hicke: For the Japanese?

Raven: Yes. From a group, you’d send out a 24-plane squadron. When we went up there, we thought we’d go above that cloud cover and we’d be fine.

But about the second time someone tried that, those good gunners down there fired right up through cloud cover, and they knocked a couple of ships out the air.

Hicke: Anti-aircraft?

Raven: Yes. We had a different ballgame up there; we had good ak-ak. In fact, Formosa was the training ground for ak-ak. Because the Japanese had taken over Formosa from the Chinese.

Hicke: What could you do about it?

Raven: Well, you could be a lot more careful; very evasive flying.

Hicke: Oh, okay.

Raven: You couldn't stay on a bomb run. It was like the American Air Force over Germany. You couldn't stay on the bomb run very long because they would be waiting for you. You had to stay on a short bomb run and get the hell out.

We made a lot of trips to Formosa. At times, my pilot led the group. He'd been a first lieutenant in the infantry and, I think by this time, a captain in the air corps. He'd been a first lieutenant when I first met him when we first came aboard on one mission. He led the whole group, and we had a new radar airplane, and we were going to bomb Kirun Docks, in the northern part of Formosa. I was not back in the waist, because I knew we had no fighters and the pilot wanted me to be down there in the pit just in front of the bomb bay, since sometimes the bomb bay doors wouldn't go all the way up and you had to be sure they were all the way up. Captain Rollings was with us, sitting in the co-pilot's seat checking my pilot out. All at once the Japanese laid a tremendous flak barrage underneath us. I was sitting on my own parachute harness, and there was a hole in that but it was a minor thing. The captain, who was in the co-pilot's seat, was hit quite badly in his upper leg. In fact, the navigator then spent a lot of time patching him up. A piece of flak also cut a line in our ship on May 19, 1945. It's all in the 380th Bomb Group book if you want to read it. I'll show you where it is in there.

This hydraulic line was needed to get the wheels down and locked, and we could tell it didn't do any good to try to patch it up, and so the pilot

and I agreed that we wouldn't put any more fluid in, until we got back to Clark Field. We weren't going back to Mindoro. We were going back to the big base in Luzon (Clark Field). So we waited until we got quite a ways back, and then we put the fluid in and I'd wrapped the line by then. We were really tickled when those wheels came down and I could report from the waist that they were locked. And so we got the plane on the ground, but then they scrapped it. The whole front end of it was just shot up. But only this one person was hit. That was quite an experience.

The other thing that we did that was kind of unusual: we were sent with a brand new ship again on a mission, and we didn't know why this was being done. We'd seen this huge armada of ships, and we couldn't figure out what it was. Well, it was a fleet getting ready for the invasion of Okinawa.

Hicke: Ours?

Raven: Yes, our fleet. Huge fleet. And they invaded Okinawa, and we knew that. On the 15th, we heard about Hiroshima and Nagasaki. We were sent up on the August 25th, because I think the Japanese were supposed to have surrendered at that time.

Hicke: This was in 1945.

Raven: Yes, [8/25/45] 1945. And no one knew for sure, so they sent the three heavy groups up. First we flew to Hiroshima, and that was flat. All there was, you know, was that one bridge across the river and an old church by a tree near the river. We went over to Nagasaki. There wasn't anything happening on the ground in our trip across Japan. There was not a train moving on the ground, there was not a truck or car moving. We did not see any people. We all assumed they were probably in their houses waiting to see whether it was really through. But there was no action taken against us or anything else, so we turned away from Nagasaki and went back out over the ocean and dropped our bombs in the ocean and went home. It was about an 8½-hour mission, just from Okinawa. Okinawa is down there quite a ways. Of course on the 2nd of September, they were on the battleship *U.S.S. Missouri* signing the peace treaty.

We saw General Douglas MacArthur on Okinawa. One morning we saw him in a revetment, where there wasn't any plane in the revetment, a

young lieutenant came by, and he was bringing him a sword that they had taken off the Japanese at one of those great caves on Okinawa. His big plane was right up the taxiing strip, and he was on his way to Tokyo to go aboard the *Missouri* for the surrender. This was on the 15th, I think, when we went on the mission. And we saw on our own strip, the Yontan Strip on Okinawa, we saw the Japanese plane on its way to the Philippines to surrender. I tell you those officers had the most beautiful uniforms I've ever seen. They must have been silk. They were beautiful.

This Yontan airstrip was a funny strip; it had a cliff off the end of it. In fact, we lost some planes off there. The Navy was out there in force. One night we got a hell of a typhoon, and they hadn't had word of it either. Our tent was blowing away, you know, the top of the tent and the roof of the mess hall. One morning we got up, and the Navy was gone, and we knew we were in for trouble. We got another typhoon, but it wasn't as bad as the first one.

Hicke: They knew about that one coming.

Raven: Shortly thereafter, I went out to see my brother; I guess I heard from home that he was on a ship out that way. I knew the name of the ship; it was a passenger ship to take soldiers back and forth. And he didn't know where I was. Joe Maloney started talking; he'll do anything. He said, "We can get out to that ship. Come with me." We got a ride out to that ship, we got aboard, and we told the guy in charge, I said, "My brother Dean Raven is on this ship."

He announced, "Dean Raven, report!" So finally we see Dean who was trying to sneak along the side, wondering what the hell he'd done now. *[laughter]* Then he saw us. We were lucky to get out that night on another ship and got taken back to land. Maloney was like that; he would do anything.

Then we lost the aileron on our aircraft in another typhoon. By that time we were sleeping in the aircraft, because people would drive up at night, and they were scavenging. So we went down and scavenged down at another air base, and we got new ailerons for our ship. And we left, we flew back. Our pilot's wife became very ill, so he came back to the U.S. ahead of the crew. We had a co-pilot from another crew as our pilot.

We flew back across the Pacific, and we made four stops from Honolulu. We went up to Mather Field outside of Sacramento. I wanted to get home, but you had to go to an air base in the area in which you'd enlisted. I had to go back to Indiana which, along with Michigan and other states, was in the district in which I had enlisted. It seemed like a crazy thing. But I was home and deer hunting by November 15, once we got started.

### A Few Anecdotes

*[Following anecdotes told to Bill Alsup during interview with Bob Raven & Joe Maloney<sup>4</sup> in 1999:*

Maloney: And I said, one day, getting up out of bed, we had the mosquito nets and everything, I said, "All this dirt and everything and bugs on the floor." I said, "I sure would like to have a floor." Bob said, "What do you have in mind?" I said, "Well, there's a ping pong table up at the headquarters at the officers' place. I don't see anybody ever playing ping pong." So we went out and just took that ping pong table and made a floor out of it. Bob was all enthused about it, although today he might deny it. But the two of us went up, and Bob got on one end, and I got on the other and we got this ping pong table. We sawed the legs off [put half under each of our cots], and we were in business.

Raven: We didn't think of it at the time. It would fit under your cot. It would take, you know, it would be under two of your three sets of legs on the cot—one in the middle and one on each end. Then, when we nearly got in trouble was when we had—I think the only inspection we ever had on Mindoro was when Colonel Forrest L. Brissey, Jr. was coming around. He probably had, I'm sure, fifteen officers with him. They were walking through the camp looking at tents. They stopped at our tent and looked for quite a while, pointedly, in fact. But I don't know what they saw, or what they thought they saw. Then they went on up our road, about five tents down from us, see. They turned around, just the Colonel and about three or four of his guys came back. They looked again. But again, never said anything. So I don't know what that means, or maybe they thought that if these guys were this disingenuous, we ought to leave

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<sup>4</sup> T/Sgt Joseph W. Maloney was the radio operator gunner on B-24s with Bob Raven in WWII.

them alone. Or maybe they thought this looks familiar. At any rate, we had our floor until we left the island.

We also had another thing going, they never caught on. We had a radio that Joe [Maloney] got in Adelaide. Maybe it wasn't Adelaide—could have bought it in Darwin. And, of course, no one among the enlisted men had electric power during the day. And we said, "How the hell are we going to play this thing?" So, we put it right next to the center tent pole on a table. We had a line running down, and we dug underneath the tent. Then we went back in the middle of the night, one night and we dug across the road to Group Headquarters. We knew an enlisted guy in one of the tents up there who was part of the Headquarters staff. So we plugged in there. Guys would come by and say, "Gee, you guys have a radio! How do you keep your batteries charged up?" We'd say, "Oh, we just keep changing them. We take care of it."]

*[Following story told to Eileen O'Hara:*

Whetstine and I were the only two Protestants in our tent. There were two Catholics, Joe [Maloney] and Hank Kaminski. Joe used to wake up Hank and they would go to church. There were two Mormons, Otto Mills and Reid Miller. Whetstine and I were the only ones who got to sleep in on Sunday mornings.

One day I went into the tent, and I said, "We've got to clean this place up. It's a mess." Joe asked me on whose authority I was issuing orders. I said, "On mine. I'm the Non-Commissioned Officer in Charge of this tent, and I say it should be cleaned up." Boy did he give me the razz about that. From then on, I was the "NCOIC." He still calls me that.]

Hicke: Maybe that's a good place to stop for today.

Raven: Yes. That's a good place to stop.

[End of Tape 2, Side B]

### III. MICHIGAN STATE UNIVERSITY AND BOALT HALL, 1945-1952

Interview 2: December 17, 1997

[Begin Tape 3, Side A]

#### Starting at Michigan State

Hicke: We want to start where we left off last time, and that's in 1945. You got out of the service and you went to Michigan State University. That was your home state university, right?

Raven: It was. I think I told you how I happened to get started. I had just returned from the service, and I was deer hunting. I got back about November 15. One afternoon we had stopped hunting, and I was up in Cadillac, and I met an old classmate at Stone Ledge School. I met him on the street. We got to talking. I don't know if he was in the service or not. I guess he was, and I think he'd just returned, too. I said, "What are you going to do?" He said, "Well, I'm going to Michigan State; in fact, I'm going to start with the winter quarter right after the holidays. Why don't you go?" I thought about it a minute and said, "I think maybe I will." So that's how I went down to Michigan State. When we started, maybe it was either January or February 1 or something like that.

I went that year, and then my brother, Dean, came back from the service during that summer, and Kay's brother, Dennis [Erickson], came back. And of course Kay came back—Kay was a sergeant in the Marine Corps. When her brother went off to war, she was going to go, too. She was the only other child in the family. She spent a lot of time in southern California as a sergeant in the Marine Corps. My second year at Michigan State, the three of them came down. Kay and I got married a year later. Then Kay and I lived in student housing in East Lansing. We were both on the G.I. Bill. The G.I. Bill—that was a great thing for a lot of people.

Hicke: You gave me that article about the effect of the G.I. Bill on Americans, and that was excellent.

Raven: So that's how I got started. I was going to be a forester at Michigan State—I was going to be in the forestry service, as Dennis Erickson, my brother-in-law, did, and my brother, Dean, did some of that, although he finally ended up in agriculture.

I'd hurt my foot sometime during that process—I believe it was the summer of 1941—I'd broken it. They were putting in a highway to one of those big car manufacturing plants up in Lansing, and I was working on the road crew. One of the graders fell on my foot. They had to get a crane to get it off. So, for about six weeks while my foot was in a cast, I did nothing but read books. One book that I read was *Clarence Darrow for the Defense* [by Irving Stone]. That was quite persuasive. So I said to Kay, "You know, I think I'd really like to be a lawyer." She said, "Well, if you'd like to be a lawyer, that's what you should do." So I switched my major, to some extent, although I took a lot of the same courses. A lot of courses would fit into pre-law.

Kay and I finished at Michigan State, and I was notified that I could be admitted at University of Michigan Law School, which is a very good law school. I was also admitted at Boalt. We laugh about it, but we claim we didn't decide where to live until we drove down from Cadillac and passed the spot where you could turn over to Ann Arbor, and we headed for Chicago, and came way out here to California.

We got some housing over in Richmond [California]. They had some housing there for about two days. Then, luckily, we rented the top floor of a house in Berkeley on Arlington Avenue. The house was owned by a very nice, quite wealthy lady. Mrs. Vornholdt was her name. We spent about a year there, and then we rented a nice apartment about a block from the new Boalt Hall.

Then, Marta was born in the fall of 1952, right at the very time when I was taking the [California] state bar. So Kay had to quit her job, but she worked up until two weeks before she gave birth. I still had my G.I. Bill and Kay worked as a senior library assistant in the Documents Department at the University of California library with some very nice ladies over there—Miss Elinor Alexander and Miss Isabel Jackson. Everybody called them "Miss A." and "Miss J." All documents coming into the library came across Kay's desk, and she read them and marked them for filing. In fact, while Kay was pregnant, the baby used to kick so hard sometimes that she jiggled the table where Kay was working. She had a good job there. But at the time I took the bar, she had to quit her job because all at once we had a baby. Marta was born on my birthday—September 26, 1952. The funny thing is—Miss A. left the U.C. library and went to work as a librarian for Pillsbury, Madison &



**T/Sgt. Robert D. Raven, Hamilton Field, November 1944.**  
Photo Courtesy of Joseph Maloney



**B-24 Crew, October 1944**  
**TOP (l-r): Bill Wehrly, Richard Zapf, Dean Waddell, Miles Fetterman.,**  
**BOTTOM: Bob Raven, Joe Maloney, Reid Miller, Don Whetstine, Hank Kaminski, Otto Mills**  
Photo Courtesy of Joseph Maloney





Sgt. Leslie-Kay Erickson  
U.S. Marine Corps.  
1944-1945



Sutro. Many years later, my daughter, Marta, applied to her for a job there and was hired. On her application, she wrote that the only experience she had with documents was “pre-natal.”

As I recall, shortly after Marta was born, I was in San Francisco taking the bar exam.

### More on College

Hicke: OK, well, we need to back up a bit, here. We went by all that pretty fast.

Raven: All right.

Hicke: We didn't talk on tape about your college at all. You told me earlier, I think, off the tape, a little bit.

Raven: Well, let's see if I can get the timing all right, here.

Hicke: Well, let's start with the year that you started—it was 1946 apparently when you started in school.

Raven: Yes, the war was over in 1945. We came back in '45, and so I went down there, and it was either in January or February. I got my classes and went through the big lines—a lot of people because of the G.I. Bill.

Hicke: A lot of returning GIs.

Raven: I lived in the dorm—a very nice dorm there on campus—my first year. As I said, I was sort of thinking in terms of forestry or something along that line my first years, but that all changed I think about the second year. Kay came back from the Marine Corps. Her brother Dennis came back from Italy where he'd fought up in the mountains—he was a ski trooper up in the snow in Italy, in the 10th Division. The division in which Senator [Robert] Dole was badly injured on the landing. My brother Dean was in the Navy. So they all came down the second year. Kay and I weren't married the second year. She, I remember, worked for a doctor and his wife in their home. That's where she lived.

Hicke: Were you working?

Raven: I was working part of that time. I worked at Reo Truck. They made Reo trucks. I worked evenings there. I don't think that was the first year,

though. I think it might have been in the summer. Then I went through them all in Lansing. I worked where they make Oldsmobiles.

Hicke: What were you doing?

Raven: I would work on the line.

Hicke: Oh, assembling parts or something?

Raven: Yes, like when I worked at motor wheel. I worked on the wheel—not the tire, but the wheel. It came to me on the assembly line, I took it with one hand and put it up on a jig, and it punched out the valve hole. Then I did one other thing with it, and it went on like this.

Hicke: Repetitive!

Raven: You had fifty-five minutes, then you got five minutes off—most of them to smoke. I didn't smoke. I worked there, and I worked at Reo Motors at one time. That was Reo Trucks, where I worked on big, heavy motor blocks. Then I worked at General Motors at their Oldsmobile plant and worked on the line and that—I'm now talking about all the time I was going to school down there at Michigan State. Let's see. It's a little difficult for me to sort it all out. I guess it must have been 1946 when I started, right after the first of the year. I continued to live in the dorm, and then we married the second summer. We came back, and we got student housing. They had a lot of student housing right there on campus.

Hicke: Again, the G.I.s?

Raven: Yes, exactly. So we lived there while we finished our school at Michigan State.

### Professors and Classes

Hicke: Are there any professors or classes that you remember as being particularly good?

Raven: Yes. Zerby taught Logic. What Kay and I were doing with it, I don't know, but we both liked that course. She was superb at it, as usual. I didn't do too badly. He was a very great guy. There was a professor

that had come from the University of Minnesota also that I liked very much. I forget his courses and his name, but I think he thought well of me, and he was very helpful to me in a number ways. He was a great Hubert Humphrey fan. We had a lot of other good professors.

Hicke: Well, what did you major in?

Raven: Well, it was finally directed toward law school. I took a lot of econ, a lot of advanced history, and we took logic. It was quite a course.

Hicke: I liked that myself.

Raven: I liked it very much, too. We thought it did us a lot of good. I don't think it would be fair to call it a pre-law course of study, because I don't think that Michigan State at that time was thinking in terms of pre-law, although they had all the courses. I think what I did was, once I decided I was going to law school, I picked out the courses that I thought would make sense. History was a big part of it, and I loved history anyhow, and they had an some excellent teachers. They had one man and one woman who were especially good in history, and I took courses from both of them. They were both excellent. So I had some very good professors there. I did very well. I think as I recall, I graduated with honors. Kay, of course, graduated with high honors. Kay would not study for months. The night before an exam, she'd stay up all night, and she would always do better. I always claimed it was because she was a better speller, but that wasn't quite true. But we both did very well.

**Boalt Hall, Univ. of California, Berkeley**

Raven: Then we had to decide where I would go to law school. That's where, as I say, I was advised that I could be admitted at University of Michigan Law School, which was a very good law school, and at Boalt Hall. We had a hard time making up our minds. We laugh about the fact that we finally decided when we drove past the spot where we would turn and go over to Ann Arbor. That's when we knew we were going to Berkeley.

Hicke: What were your impressions of law school?

Raven: I liked it very much. We were still in the little old building down by the campus gate. Our class—the class of 1952—was there the first year. At the end of our second year, the law school moved to the new law school

building. Our class spent two years at old Boalt, and we found out we were the first graduating class from the new law school.

### Law School Professors

Hicke: Tell me what you remember about law school.

Raven: I liked Frank [C.] Newman very much. He was kind of my mentor in many ways. I liked Barbara [Nachtrieb] Armstrong. I'll tell you a little story, you'll want to put this down. I got along with her very well. I took Family Law from her, you know. Roger Traynor wrote an opinion when he was in the California Supreme Court—of course he'd been at Boalt—I thought there was one thing wrong with it, one paragraph of the opinion, and so I went up to talk to Barbara about it, because I thought that she would agree with me. "Oh no, no," she said. Not two days later she called me up, and she said, "Mr. Raven, I've been looking at this opinion of Traynor's. I think a part of it is wrong." I said, "I think so, too." A couple of nights later, I was in the library, and one of Traynor's clerks whom I knew real well—he'd been a year or two ahead of me—he said, "You son-of-a-gun." After Armstrong discussed the opinion with Traynor, he rewrote the opinion.

I liked all those professors. Ed[ward L.] Barrett was the law professor who later went up to the law school at Davis. He was a wonderful lawyer, wonderful. William Lloyd Prosser was the law school Dean and our Tort teacher. Covey [Thomas] Oliver III was great. He was a pistol. We had a great faculty. James P. McBaine—you couldn't beat McBaine for Evidence and Civil Procedure. Ed Barrett taught Constitutional Law. Then we had William [T.] Laube for Contracts. Vernon Smith, who was the librarian, was a very nice, polite person. Well, I think it was just a tremendously able faculty at that time. Stefan Riesenfeld came just after I graduated. When he taught at Hastings, he told my son that I was one of the best scholars he ever had. I had to tell my son that I got to know Riesenfeld in the library at Boalt after I graduated.

- Hicke: I have a history of Boalt Hall at home, and I'm sure Frank Newman<sup>5</sup> talked about all these people.
- Raven: Oh, Newman, yes. I had a lot of classes with Newman.
- Hicke: I wanted to ask you about Allen Broussard.
- Raven: That was my last year, and I guess it was his first year. He was a wonderful guy. I got to know him quite well.
- Hicke: I understand you mentored him. What did that involve?
- Raven: It didn't involve a lot. I mean, the first-year law student could come and ask questions and ask about procedures and get some help, too. Just someone that they could go to and ask, "What about this professor, and what should I be doing, and how hard should I be studying?" and that type of thing. But it was a good plan, I thought. Bill Miller was in my class. Do you know who Bill Miller is? William Miller was the editor of the *California Law Review*. I was one of the editors on it, but he was the editor. Later, he ran a big company in Rhode Island, and then he was Secretary of the Treasury under President Jimmy Carter. We had a lot of good people in our class.
- Hicke: Anybody else that you remember as classmates?
- Raven: There was a guy named Delman Kinsell, who was first in the class. He just died a couple of years ago. He was at the Orrick law firm. To my surprise, he did probate work and all that type of thing. I always kind of wondered why he settled on probate because he was such a brilliant guy. I remember once he was taking a test, and I stopped him on the way to the test and we started talking. I said, "Wait a minute, you've got to get upstairs." He said, "Don't worry about that. I'll do that." He talked to me for a long time and finally went up. He had a tremendous mind. I don't think I ever saw him more than a couple of times after we graduated.

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<sup>5</sup> Frank C. Newman, Oral History Interview, conducted 1989 and 1991 by Carole Hicke, Regional Oral History Office, University of California at Berkeley, for the California State Archives State Government Oral History Program.

Miller graduated a semester before us, and I think he was second in the class at that time, but I was told at one time that I got just ahead of him a little bit in the final semester. But it was always nip and tuck. He was editor of the *Law Review*. I would gladly yield to him. I've got to see the record some day over at Boalt, but I was told by the dean that I'd gotten ahead of Bill Miller in my final period.

Hicke: What did your work on the *Law Review* involve?

Raven: You help the editors by revising papers written by others. I also wrote an article on Supersedeas and Stay Law.<sup>6</sup>

Hicke: On what?

Raven: I always said that I thought the only people that knew about it were one of my fellow revising editors, who acted as a revising editor for me, and Kay, who typed it. But I'll tell you a little story about it. Of course, I went to Bernard Witkin's course getting ready for the bar. He was just another wonderful person. I'll tell you, he put all the courses together for you. It was just marvelous how he did it. But anyhow, I was back at the office, but I'd taken the bar, it was in the fall. I don't think I got sworn in until January or something like that. He called me, and I think he called me after I had taken the bar, but before the results were known. Well, anyhow, my secretary said, "A Mr. Witkin wants to speak with you." And I said, "There must be some mistake, he wouldn't be calling me." She said, "No, he's asked for you." So I took the call. It turned out that in addition to my wife, he had read "California Stay Law—Supersedeas and Statutory." Of course, he proceeded to tell me what an excellent article he thought it was, which was a tremendous thing for a young person.

Hicke: That's pretty good feedback.

Raven: Yes.

Hicke: What's it about?

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<sup>6</sup> California Stay Law—Supersedeas and Statutory. Comment: *California Law Review*. Vol. 40 (1952), pp. 249-275.

Raven: In California at that time, when you were going to take an appeal and you wanted to freeze everything, you'd get a writ of Supersedeas that would prevent anything further from happening other than the appellate court going ahead and solving the thing. But it meant that you couldn't go in and execute on the judgment in the trial court. Everything was stayed, other than the appeal. That was the stay law. Some of it was done by actual CCP [Code of Civil Procedure] sections that dealt with it. There are always some odd situations that they don't quite get the sections to completely cover, and whenever that happened, it was handled by a writ of Supersedeas. The appealing party would go in and ask for this writ, which would then keep anyone from executing on the judgment or anything else until the appellate court had dealt with it. It's a pretty esoteric field. I really worked very hard at it. I'll never get over the fact—I suppose Witkin was one of the few other than Kay that had read it. Kay read it because she had to type it. It was so nice; such a tremendous thing for a young lawyer. Wasn't that thoughtful of him?

Hicke: That says a lot about him, doesn't it?

Raven: Oh yes, a lot about him. He's one of my heroes anyhow. I just finished chairing the Witkin Legal Institute Advisory Board. Alba Witkin started it after his death, and it's an organization that will do everything it can to keep his word out there.

Hicke: He never would do an oral history, so if you have any stories you'd like to tell me . . .

Raven: I'd heard something about that, yes. Well, I just told you one.

Hicke: That was a great one!

Raven: He was a tremendous guy. A couple of times I spoke when they had those big parties for him on his such-and-such anniversary, and so I got to know him quite well. I know I've got, someplace around here, I've got my notes from when I spoke. I had just returned from Washington, D.C., and the American Law Institute meeting, and I remember I worked on my speech. You know, all these great minds gather in Washington to work on the restatements and all of that, and I said we have one person in California who does it all.

Hicke: Oh, great. That's a good line. Now, anything else in your notes about Boalt that we want to be sure to cover?

Raven: No, I enjoyed it immensely, and I didn't know if I would, and I didn't have really a very good scholastic background in many ways. I mean, Stone Ledge School was all eight grades. You know, I don't think I ever learned the alphabet at that time. We had certain things we had to learn for the state test and, of course, I did well at Michigan State. But again, I didn't think of myself as a scholar, although I had a tremendous interest in it. It turned out that, in fact, after I graduated and came over here to work, I taught a little bit. I taught first at Golden Gate [University]. I would teach at night at Golden Gate. I've forgotten even what I taught. And then, of all things, they brought me back one time, and I taught at Boalt. I think it was one of Riesenfeld's courses, because he was over in Europe at that time. Anyhow, I went over there, and I taught that course, and I can't even tell you the course! *[laughter]* But I enjoyed it very much. In fact I had some thought about being a professor in the law school. I remember when I first met Stefan Riesenfeld, he was in the library peering over the books. You know how he looks over the books there, and I was already in the law firm, and I was working up there one night, and that is how I'd gotten acquainted with him. We got along very well. I thought the world of him.

[End Tape 3, Side A]

[Begin Tape 4, Side B]

Raven: I talked to Riesenfeld about how I liked teaching, that I liked teaching at Golden Gate and I liked it when I went over to Boalt (I think it was his course, or it might have been [Edward] Barrett's). Anyhow, I liked it very much. He said, "Well, would you ever be interested in teaching?" I said, "You know, I think I would." Next thing I know, he just about had me on a plane going to the University of Minnesota. I had to stop him! *[laughter]* That had made me face up to it.

Hicke: You had to choose.

Raven: Yes, and I said, "My gosh, I've got a daughter," and sons were on the way. The sons were born in the late 1950s. Matt was born in 1958 and Brett in 1959. Marta was born in 1952 when I took my bar exam. I've got that down.

- Hicke: Let's put that off for just a minute. Did you have Captain Kidd [Alexander Marsden Kidd] ?
- Raven: Captain Kidd was still there, but he wasn't teaching any longer, thank God. *[laughter]* He was across the hall from the big classroom in old Boalt, and I met him. They'd talk about how he would lock people out of class and so forth.
- Hicke: He was quite a curmudgeon, I guess. But you never had him?
- Raven: No, no. I would see him around. They'd tell me how he took the exams and papers and went on an airplane back East, and someone claimed he threw them away. I don't know. Interesting guy. But see, we had [William T.] Laube, Contracts; [Frank C.] Newman, Administrative Law, which covered everything. [Albert A.] Ehrenzweig taught esoteric courses. [Richard W.] Jennings, of course, and I think I had [Henry Winthrop] Ballantine for one semester. In fact, I think Jennings had to finish the Ballantine course.
- Hicke: Did you have any choice of courses, or was it pretty well laid out?
- Raven: It was pretty well laid out, although I think you had some leeway after the first year. I don't think I had to take Administrative Law. I could be wrong on that. But I wanted to take it. I think maybe it was the last year that you had choices.
- Hicke: Did you have any leaning toward litigation, and did you have any training for that?
- Raven: Well, anyone who took courses from the guy from Missouri knew about litigation. [James Patterson] McBaine was a great Evidence teacher and a great Procedure teacher, and he was an old litigator. He had been a litigator in Missouri, and he'd talk about some case where they were wheeling a lady on a gurney into the courtroom and one of her children was cooling her with a fan. He was supposed to defend the railroad, and he saw it and then went out and called the railroad company and said, "You'd better settle this case, or they'll have your whole damned railroad!" *[laughter]* That was McBaine. He had a great way of talking.
- I'll tell you another little story. I went up to see him one time in my first year on a Saturday afternoon. I went in to ask him some questions.

McBaine was wonderful. We got into a big discussion and so forth and someone knocked on the door. He opened it, and he said, "Roger!" He said, "I have a student in here." The guy said, "I'm sorry," and I tried to get out of it. I said, "Well, gee. I don't know the gentleman, but I—" And McBaine says, "Oh no, our students come first." So we talked some more. *[laughter]* I said to him when the other guy left, "Wait a minute, I've taken too much of your time." Afterward I went out, and I went to the library, and I asked the librarian, "Who is this Roger guy?" She said, "Well, that's Justice Traynor." *[laughter]* But you heard that, "Our students come first!"

Hicke: That is good news. That's great!

Raven: Isn't it? Well, he was that way. I thought it was a tremendous faculty. I never regretted not going to Michigan, although I know that Michigan is a very good school and probably had a wonderful faculty, too, but I just thought this faculty was tremendous.

You had to get used to things, like Newman, who was my hero until one day he took off in some direction in Ad Law, and he went just the opposite of what I thought he believed. Well, it turned out that he did believe the other way. But I remember going up and saying something to him. And he said, "Well, you've got to be able to take both sides!" *[laughter]*

Newman was the one who got me to come over here. Or, he didn't. He called John Austin. They never went to schools to recruit before that time. The first time they ever went to a school, John Austin came over.

Hicke: So Frank called John Austin and said, "Come on over here."

Raven: I didn't know that, of course, at the time. John has told me that since. So John went over there. I remember I looked at some other firms. I'd spent a little time at Brobeck, and I think I'd spent some time at McCutcheon. So I got to know a lot of prospects, but then Newman started working on me, and John came right over to see me. It happened in a hurry later on, that people would come to the school in droves, of course, but not that much at that time.

Hicke: Did Frank [Newman] know about Morrison & Foerster because of his wife being here?

Raven: No, she wasn't here at that time. She joined us later. She joined me when I was trying the avocado case for Florida. She came at that time, because she worked with me in the trial of that case. In fact, we actually put her on the stand, because we had had her selling some Florida avocados someplace. And it turned out she was a great expert in some of those fields. She was a hell of a witness.

Hicke: What was Frank's interest in MoFo, then?

Raven: Well, he was a good friend of John Austin. I suppose that at a party or something, he'd said, "Well, you ought to come over and see this guy Raven," something like that. I stood very well with him because I liked a lot of the same things he did. I liked Ad Law. A lot of students didn't like it, but I was very intrigued with it, and I liked him very much. He was quite a guy. I liked them all. I liked all my professors. I liked [William Lloyd] Prosser, even though he was an ornery son of a gun. But Professor [William Warren] Ferrier was tremendous. He taught Real Property and all of its tougher ramifications later on, and I found out that—I stuck right with him, but if you got a little day-dreamy in the course, it took you two days to catch up to him. He was a great teacher. [Richard W.] Jennings was a new teacher but a good teacher. I think I had a semester from the guy that Jennings really succeeded and taught his courses later on. He was such a tremendous, a very honored teacher over there. I can't come up with his name [Henry Winthrop Ballantine], because I never have occasion to think about it. He was one of their great professors.

Hicke: Did you have to really hit the books and spend a lot of time in the library?

Raven: Always. I was always running scared. So I worked hard. I worked hard in law school. I've always been a good reader and a fast reader, so I can cover a lot of territory. And I think that I was kind of made for law.

Hicke: I think that's pretty evident.

Raven: And I had decided that when I read, as I said, the book about the great master by Irving Stone: *Clarence Darrow for the Defense*.

Hicke: He had a lot of influence in many ways, I guess—Clarence Darrow.

Raven: Yes. They tried to put him in jail down in L.A. when he tried a big murder trial out there, and they had some big fight about it.

I liked Barbara Armstrong very much. She was a good teacher, a very good teacher, and that wasn't my course really, Family Law, but she made it good. I thought it was a tremendous faculty.

Hicke: Were there many women, or any women, in your class?

Raven: Yes. There were about three or four to start. Peggy Hoyt was in it. In fact now when we have our reunions, Peggy still puts them together. She's a lawyer up in Sacramento. And I don't know how many graduated. I would say that there were three or four, but I don't think that many graduated. Some of them dropped out. But I would say that at least three or four graduated.

Hicke: I think now you've covered most of the things that I had on the outline.

Raven: We've talked about the professors and the classes. And outside activities. The only outside activity was the California Law Review, and you could hardly call that an outside activity.

Of course, I came over here [to Morrison & Foerster] at the end of my senior year, and I worked during the summer when I was also going out to Witkin's courses, and I guess I took off about three weeks before the bar exam, something like that.

Between the first and second years I worked as a guard at a company in West Berkeley. I believe that between my first and second year I was working on a law review article.

Hicke: And you were awarded the Order of the Coif.

Raven: Yes. In our class, there were six or seven of us who got that, or five or six, or something like that. Delman Kinsell, the first in the class, Bill Miller, myself, and I think, Harris Seed.

Hicke: That's one you haven't mentioned before.

Raven: The nickname was apparently in college: He Plants. It always got a laugh. I forgot about He Plants [Harris W. Seed]. In fact, he's a lawyer in Santa Barbara. Good lawyer.

#### IV. MORRISON & FOERSTER EARLY HISTORY

*[The following interview was conducted by Tom Wilson and Carole Hicke in 1988]*

Wilson: We'd like to talk briefly to you about two things: the formation of sort of the modern MoFo—your view on it, the Schroeder's meetings. We'd like to concentrate on your feelings towards John Austin and what he's meant from his background. I should tell you that we've had an introductory discussion with John; he's so terribly modest. If we just rely on Carole taking his oral history, he's going to do himself sort of a disservice. And, we'd also like your views on what Mr. Clark told you in terms of the breakup of the firm—to get that down.

Raven: Matter of fact, he didn't tell me anything, nor did [Roland] Foerster, nor did any of the rest of them, except [Edward] Hohfeld. He told me everything. Hohfeld told me everything.

Wilson: That's even a better source. Shall we start with that?

Hicke: Yes, sure.

Raven: Which one do you want to start with?

#### Dissolution of Morrison, Dunne & Brobeck

Wilson: With what Mr. Hohfeld told you about the breakup.

Raven: All right. The way this happened is, you know I came here in '52, and I think just before then Mr. Hohfeld had stepped down as an active partner. I think it was at the time John Austin came in as a partner. I think it was about '52, it might have been '51, '50.

Wilson: Mr. Hohfeld was Of Counsel?

Raven: He was Of Counsel, and I was doing some work for him. In fact, what I think we were doing is there was something we called the "Birdwatcher's Trust," as I remember. It was one of the many trusts set up in the May T. Morrison Estate. It might have even had something to do with the National Boy Scouts, but anyhow, it had outlived its purpose, and so I filed a *cy-pres* case on it. So, I had a lot of occasions

to talk to him, and one afternoon he spent about three or four hours just talking about it. It was fascinating. Fascinating.

He started with, and I guess I'll just tell you everything. Maybe we should shut the door, and you can worry about libel laws and what should go in and what shouldn't go in.

Wilson: We'll be discreet. *[unintelligible]*

Raven: O.K. For example, he started with when Herman Phleger came to the firm, and he, of course, traces it to that. Herman had apparently come over from Boalt to seek work, and in those days you came to the firm, of course, and they told him they didn't need anyone. And, then the Dean at Boalt who was a famous dean over there. He was one of the old famous deans, I'll think of it. Anyhow, he called Hohfeld, he said, "Would you take another look at Herman Phleger?" So he said, "I invited him over again." He said he talked to him, and he said he told Phleger that, "Well," he said, "we don't really have any room for anyone." And those were questions in that day. You wouldn't think of renting another office or anything, you know. You didn't have any room. And Phleger said, "I'll sleep under your desk." So, finally, Herman said, I mean Mr. Hohfeld said, "I said to him, 'Well, we have this big case going on up in Marysville, and if you would leave for there tonight, and you may be up there for quite awhile,'" he said, "we would go ahead with it." And he said that's how Herman Phleger was brought into the firm.

He attributes the whole breakup to Herman Phleger. He said Phleger was a very aggressive person. He said he found out later he, Hohfeld, that the reason he didn't see some of his clients anymore, according to him, Herman would wait out in the reception room and tell them that Mr. Hohfeld was busy. Now, you have to have in mind that I had never met, at this point, Herman Phleger. I met him just about a year before his death a few years back when the antitrust professor at Boalt was giving his first speech on a Chair that he received over there. A dean asked me, it was Sandy again, not Jessie, I don't think. They said, "Could you give Herman a ride over?" I gave him a ride over, and he was a charming person.

Hicke: That's what I've heard.

Raven: Just a charming person. We had dinner with a few of the faculty up in the lounge, and he told this great story about Earl Warren. Earl Warren's grandson was there, and he told this great story. They were both, of course, in the same class in 1910. One day Herman was a little thirsty, and he went down, you had to go three miles from the campus, to get a glass of beer. There was a famous bar down Telegraph Avenue, or someplace. So he went down there, and Warren was there. A census taker came in, 1910 census taker, and the census taker, Herman, and Earl Warren were drinking beer, and the census taker said to the bartender, "Well, I'll put you down as a bartender." The bartender said, "No, geez," he said, "my wife doesn't like that, being a bartender." He said, "Put me down as a clerk." "Well, that's nonsense! I'm not going to put you down as clerk." So, Warren spoke up and very quietly said, "Well, if he wants to be put down as a clerk, why don't you put him down as a clerk." "Well, that's absolutely crazy! I'm not going to do that!" And, Warren turned to Herman, he said, "Herman, what do you think?" "Well, I think you're right, Earl, you ought to put him down as a clerk." The census taker said, "That's just nonsense! I'm going to put him down as a bartender." That time Earl Warren spoke, and it was a different voice. He said, "Put him down as a clerk." The guy looked up, and he said, "Well, okay." And Phleger said he never talked to Earl Warren about that again until after Earl became Chief Justice of the United States and he saw him in a train station, I think it was, or an airport, probably a train station in those days. He went up to him, and he said, "Well," he said, "I'm still the only person that I know of that was present at the first decision of the Warren Court, the humanitarian Warren Court." It was a good story.

Phleger was a really likeable guy, you know, and I was sure that it was like oil and water, with Hohfeld. But anyhow, Hohfeld told me the story, and he said what happened, one of the Spreckels boys had died, and there was going to be this big probate, and Brobeck was in Europe. Brobeck sent a cable to Phleger, or the other way around, maybe—maybe it was Phleger sent one to Brobeck. In any event, Hohfeld saw it, and it talked about this huge estate. And it said, "We don't want Clark or Hohfeld to participate in this." So that's when they first knew of trouble. And then they came back at noontime one day, and the place was locked up; the keys and locks had been changed.

Phleger and Brobeck wanted to keep Roland Foerster and Frank Shuman, but they decided, no, they would go with Herbert Clark and with Hohfeld.

Hicke: Did he say why they decided that? That was kind of a crucial . . .

Raven: No, but I, putting 2 + 2 together, I think May T. Morrison had a very strong influence on Foerster. I think, in fact, he was raised – wasn't he partly raised by the Morrises after Roland's father died? But, there was a very close relationship, and we know where she ultimately came down. You've seen her letter on that. And I think that was part of it. Plus the fact, knowing Roland, he would go towards Clark and Hohfeld, mainly Clark, more than he would Phleger and what I know of Brobeck. Roland believed in the law as a great profession and, I mean, a lot of things that Mr. Clark thought were probably a lot closer to Roland Foerster's ideas than Herman.

Wilson: One thing that you've said, from Mr. Hohfeld's view, Herman Phleger was more involved in the decision to break up the firm than perhaps Brobeck?

Raven: That's why I think, that when I first said that the cable came from Brobeck, I think I was probably wrong; I think it came from, I think it probably went from Phleger to Brobeck.

Wilson: Because one of the interesting things in May T. Morrison's letters is that apparently Mr. Brobeck told her in advance that there would be a breakup, because she writes about the "dreaded event" that she knew was going to come, and I believe she also said she holds Herman Phleger less to blame than the other two men.

Raven: Well, that could be—that could be. You know, they were all very strong people—Herbert Clark and Hohfeld and Phleger, and I didn't know Brobeck, but Peter Dunne—they were tremendously strong people.

Wilson: Mr. Brobeck passed away, I think, soon after the breakup, and Dunne went off into his own firm, and so Phleger was left representing the Brobeck and Phleger firm.

Raven: Well, coming back, Hohfeld said Billy Crocker heard about it, and they had just added the 11th floor to the Crocker Building. Billy Crocker

said, "Well, we'll kick those old fellas out, and you can have their space," which I think was the 8th floor, and Hohfeld said, 'No,' I told him, 'They are our elders and you leave them there, but we'd like to rent the 11th floor.' He said, 'You can have the 11th floor rent-free for a year to get started.'" That's what he told me. And, I've got that photo in my office of the Crocker Building in '23 or '24, and it doesn't have the 11th floor on it. So, it was right about '25, '24, when the 11th floor went up.

He then talked about the fact that there was an argument about the name, and Mrs. Morrison decided it was going to be the new group. You've seen the letter on that. Then the other story he told me about all this, he said in a year or two he was called down to Spreckels by the surviving brother, and he said, after a few pleasantries were exchanged, the brother said, "Well, Mr. Hohfeld, how would you like to be in charge, your firm be in charge of all of the Spreckels's legal business?" He allowed as how he would like that, and he said, "However, of course, that wouldn't involve the estate because you don't have control over that." And he said Mr. Spreckels said, "Well, there's a lady in the next room who wants to talk to you about that." And that was apparently Alma Spreckels, I think it was Alma. But, anyhow. . .

Wilson: She was John Spreckels's widow?

Raven: I don't have all the relationships sorted out, but he went in there and then we became co-counsel with the Brobeck firm on the probate of that estate that they were going to try to slip through. Kind of ironic—the reason I pointed it out.

Then Hohfeld told me this great story, and you'll have to use your discretion about how much of it to use, but Hohfeld said he then told Spreckels right in this very meeting, "Now, Mr. Spreckels," he said, "I know you're leaving on your yacht for San Diego today." And, he said, "And I also know that when Mr. Phleger drew your will that he. . ." It was unclear what he said and whether he said that Mr. Brobeck had been written in for a bequest or written in as executor or what, but anyway, he said, "If I were you, I'd dictate a codicil to your will and take him out of that." Mr. Spreckels said, "Well, Mr. Hohfeld, you're my attorney." So, Mr. Hohfeld called in Mr. Spreckels's secretary, and he dictated a codicil, and he took Brobeck out right there.

Hicke: And put in Mr. Hohfeld?

Raven: I don't know, he didn't say that. He didn't say that, but that's very possible.

Another little story, part of it, he said that when it was all breaking up, he talked to Peter Dunne. And he said, "Peter, you ought to come with us." And Peter said, "Well, you know, Arthur"—Arthur Dunne, his son—"Arthur has just become a partner." Hohfeld said, "I said, 'You'll be gone within a year.'" And he said within a year they were gone. And, of course, they went and started what later became Dunne, Dunne & Phelps. But, Peter Dunne was a—Mr. Clark says—and it wouldn't be easy for Mr. Clark to say this—"he was the greatest trial lawyer they've ever seen in the West." And, you know, I have this book on great American jury speeches, and the only person from the West is an address to the jury by Peter Dunne of—oh, what would it have been at that time—Morrison, Dunne & Brobeck, I guess. Morrison, Dunne & Brobeck. And that did happen.

So, finally, it turned out to be a three-way split, a three-way break. And, when I came here, of course, you had the three firms: the Morrison firm, the Brobeck firm, and Arthur Dunne's firm. Arthur Dunne was a very able lawyer. Like his father, he'd been editor of the *Harvard Law Review*—Arthur had, I'm talking about now. Arthur only died a few years ago. Tried a case when he was 80—a big case against Alioto, the antitrust meat case. Very good lawyer.

Now, what else did he tell me?

### Herbert W. Clark

Wilson: Maybe I can pique your interest a little. Mr. [J. Hart] Clinton has told Carole that it was, remember the Depression in 1929, that it was his impression that during those early years, Mr. Hohfeld largely financed the firm. Do you have any insight on that? You didn't arrive until 1952, though.

Raven: That could be true. Mr. Clark had been a U.S., the U.S. attorney in the territory of New Mexico, and he came and, I think New Mexico became a state in about '16. Mr. Clark, I think, came out here some time between 1916 and 1920. So, I don't suppose he'd put that much money

away. I don't know about Shuman. Foerster, I would have thought, would have some money from his inherited money, but, again, I'm not sure of that because his father died fairly young. That wouldn't surprise me too much.

Wilson: Can we switch to Mr. Clark? Now, remember, this is just background material. I'm not going to interview you at length. You're just helping us with some background. Mr. Clark, obviously, was a great influence on you as a lawyer. Is it fair to say he was your mentor?

Raven: No question about that. That's right. I mentioned him the other day. It was Herbert Clark who stood on the floor of the House of Delegates in 1947 or 1948 and made the motion to set up ALI-ABA, the beginning of Continuing Legal Education.

Hicke: You sent Tom, and he sent me, a copy from the history of the ALI-ABA.

Raven: Yes, so you've seen that history. He was on the first ALI-ABA Committee. The big book has a picture of him.

He was a tremendous person. He was very well read. He had a large library. In fact, he used to take Dick Archer and me up to the Bohemian Club on Saturday, if we were in working, and on the way back we'd stop at a bookstore, and he would buy us each a book. But he had very broad interests. He one time told me that his only dissatisfaction in life was that he'd never had a chance to preach a sermon on—let me get the right word—immortality. He was an interesting guy that way.

He was a very strong person in the firm when I came here. Hohfeld, of course, as I said, had stepped down, and Mr. Clark was probably the strongest person in the firm at that time.

Wilson: Mr. Clark died in 1961?

Raven: I think it was later than that date. And, Foerster, quite close. I think Foerster a little bit before. I think in 1964. I think Roland died first. Roland died in an airport in New York going to, or coming back, from an FMC meeting.

Hicke: Do you happen to know if Herbert Hoover was one of his clients?

Raven: He was, I've seen articles which said he was an "adviser" to Hoover, and I've also heard that he was one of the clients.

Wilson: I've had a conflicts check that said Hoover, indeed, was a client. It's in our computer.

Raven: Is that right?

Wilson: Mr. Clinton told Carole that Mr. Clark "kept Hoover's money." That was the legal service he provided.

Raven: Could be, could be.

Wilson: And Mr. Clark was, the expression John Austin uses, a "rock-ribbed Republican"?

Raven: Very much, yes. He was, but he was quite different than a lot of "rock-ribbed Republicans." He thought the Democrats might have a point-of-view, too.

Wilson: He never tried to force his political views. . . .

Raven: No, no. The only time he ever said anything about that—was when Eisenhower won. Why, in those days private firms were in different parts of the country representing Reconstruction Finance Corporation (RFC) and then later, the Small Business Administration. Mr. Clark was given that work in this area. And, of course, it was ludicrous: as I remember, I think he would get \$11.50 an hour, and a junior would get \$9.50 or something like that, so he didn't do much of the work. I did. I used to get a little upset at times because I'd go through all this bureaucracy and at one time he said to me, "I'll make a Republican out of you yet."

No, no, he didn't. Of course, you've heard the famous story about Hohfeld. I think I told it maybe even up at the retreat when he said to John Austin in '52, "Mr. Austin,"—he addressed him as Mr. Austin—"Mr. Austin, this will be the first time in the history of the firm that a partner has voted for a Democrat for President of the United States." And, as John said, he didn't dare to tell him that he understood that Alexander Morrison had voted for Grover Cleveland twice.

Hicke: He was a Democrat.

Raven: Well, he also later in life, I heard, voted for some Republicans, so . . .

Wilson: He voted for McKinley twice. I want to spend just a few moments and get your thoughts on this period of transition. You started in 1952 and were admitted to the Bar in January, 1953. In the early 60s the older people in the firm had left or died, and I imagine prior to that time, they participated less and less in the actual day-to-day administration of the firm. The younger partners. . .

### Structure of the Firm in the 1950s

Raven: There really wasn't any administration of the firm. There wasn't any administration of the firm. I guess when I became a partner in the fall of 1956, I don't know,—I guess by the time I became a partner in October—I think I became a partner in October 1956—[William "Judge"] Holloway was the managing partner by then, I'm quite sure. I know he was. He just did it all, like on the points, he didn't know whether anyone else had. He'd give you a little slip of paper, and it was worked out to many, many decimal points. You didn't know where you stood or anything else.

Hicke: So, he made that decision?

Raven: He made that decision. Yes. And, oh I don't know, he might have talked to Herbert Clark and Roland Foerster about it. And you never discussed business at firm meetings. We had one every week up at the Bohemian Club when the directors were there, but in the fall you talked football, and in the spring you talked baseball. Well, you talked about other things. And, I told you about how it'd always start—Shuman would be the first one there. He'd be sitting there having a drink, and the rest of us would come, and then Foerster would come in with a big cigar. And, Shuman would say, "Roland, how is Food doing?" and he meant "How's the Food Machinery [Corp.] stock doing?" He was a wealthy man, he had a secretary that did nothing but clip coupons, and Roland would give him some answer. Then Frank Shuman would come in and say, "Bert, how's Honolulu Oil?" and Clark would give him the back of his hand every time. Clark was not interested in those things. He was interested in who was running for president, and what the hell

the government was doing, and why the courts were so crowded, and so forth.

### The Schroeder's Meeting

Wilson: Could you recall when you first started becoming concerned about the future of the firm?

Raven: Yes. You know, I've never taken vacation, but I took a little vacation there. I don't know if that was when I was a partner. I don't know if I was a partner yet. I could have been—it was probably very close—and I actually went and looked around the state. I'd always thought that I'd—I'd still rather live in Eureka or Stockton or some place where you could go out duck hunting at night. And I had some offers, and so I had to make up my mind, and that's really what triggered the Schroeder meeting. So, I guess it was after, well, it had to be after I was a partner then. Well, I don't know for sure when the so-called "Schroeder's meeting" took place. It had to be around that time because I was just very concerned about the firm. You saw Pillsbury taking advantage of its growth, Brobeck and the others, and we just went on as usual.

Wilson: We hadn't grown at all.

Raven: No, no, we just sat there. So, I went up to John and talked to him about it. I said, "You know, we just have to do something about this." I talked at some length, I might have even told him that I just wasn't going to stay unless we got moving.

Wilson: Did you confide in Mr. Archer?

Raven: Well, I would have because Dick and I talk back and forth, but I just went to John because I was very close to John. John hired me, you know, and everything else. I came here because of John. So, he then got hold of Dick. I think he called Dick, and Dick came up to his office, and we decided to go to lunch and talk about it, and that's how it started. It's exactly how it started.

Wilson: Well, you also had lunches, I guess, at Schroeder's, meetings.

Raven: Yes, but there was only one big one that started it off. We went back and, I don't know if we drew it up first or we went up to see Holloway.

I don't know if all of us went. It may be that only John went up. I just don't remember, but we all went or John went, told Holloway that we wanted to come at this a lot differently. We wanted an agenda for the next partnership meeting, and we had an agenda for the next partnership meeting.

Hicke: Was this the five-year plan that you took up to him or was that. . . ?

Raven: Oh, I don't think it was anything that sophisticated at the beginning. It was just we wanted to start, where we're going, what we're doing. . .

Wilson: So, what sort of opposition, if any, did you have?

Raven: None whatsoever. No, that's a little strong. Hart was always a little resistant on the thing. In fact, you know just here in this room, Hart I think retired early because he and Dick used to fight a lot. And, both were at fault some. Dick was at fault some. I always got along with Hart. You had to understand Hart.

Wilson: Certainly in his written history he seems to suggest that the firm has grown too big and it's not the sort of place he would have liked to have practiced in.

Raven: Well, see there, a lot of people that make that choice. Ricky Musto called me up one day – it was probably in about this time – and he said, “Bob, gee, we don't have to go the way of these other firms. We've got a good client base.” “Yes,” I said, “And what are we going to do about these young people you bring in and you promise them?” And he said, “Oh, then do like—,” I forget the name of the firm, and they did do that for years, and they don't even exist anymore, and he said, “Treat them well, but they'll go someplace else if they want, and we'll just, we've got these clients, and they'll last in our lifetime.” Really, it was that, and I said, “Listen, I don't want any, that's not for me.” And Ricky did leave. But Hart was more pliable, and I think it really was a personal thing between Hart and Dick. Dick was having some of his own problems, too, and I always thought that was too bad. But, other than that, we didn't really have any resistance. Holloway was fine. Holloway was “live-and-let-live,” you know, and he had a lot of respect for John. He had respect for Dick and myself, too, although he was probably closer to John. John was more—and no, we had no problem at all, and we went ahead and did it.

We went out and started recruiting. I became the personnel committee. We'd never gone to the schools before, except John interviewed me at Boalt. I went out by myself the first couple of years. Then I got Dave Nelson aboard, I believe at the retreat. People would ask about our policies, and I'd think about it a little bit, and then I'd go back to the next firm meeting, and I'd report that this was our policy.

That's how we started recruiting women. I remember the meeting yet up at the Bohemian Club. I said there are a lot of women out there, and they're doing well. They're up at the top of their class, and we're going to start recruiting them. Hart raised some concern, and Marshall Small said something, and not characteristic at all of Marshall Small, he said, "Hart, you're out in the tide, and it's up to your neck," which is one of the strongest statements I've ever heard Marshall Small make. And to think he'd make it to Hart Clinton! So Dave and I hired women.

Hicke: When was the first woman attorney hired?

Raven: Well, Kathe Thayer, I think, was the first one, and that was just going to be on a part-time basis. I guess Ms. Hansen was really the first one. She and Janet Friedman—I'd be interested in that date myself.

Can I get down now to this meeting? [*Raven leaves interview to attend short meeting.*]

Wilson: When you left we were talking about what we've come to look at as a time of transition. The old guard faded from the scene, and you and Mr. Austin and Mr. Archer had developed sort of a program how you wanted to see the firm grow. One thing we haven't asked you about that program is whether you perceived there would be a price that would have to be paid by the middle level or senior level partners in growing the firm into the type of firm you fellows wanted to practice in. I guess what I'm asking you is, did you perceive this would hit you in the pocketbook for a period of time?

Raven: Well, we've always known that. [Clarence] Ricky Musto was the greatest profit maximizer for the existing partners. There are a lot of firms in the nation making that choice right now. Cravath for one. Cravath is looked on as one of the greatest law firms in the nation. It is a tremendous law firm, but it's in liquidation, for all practical purposes, because they can't make it just in Manhattan in the years ahead. But,

that's a choice you can make. Of course, they're so wealthy and they've got so much business, they could go out and buy a bunch of firms quickly if they decide to go in the wrong way. But, sure, we understood that very much, but certainly all three of us [Richard Archer, John Austin, and Bob Raven] are the kind of people that would rather build an institution than have in the paper the morning we died that we were millionaires.

Raven: I'm sure we understood that when we died, why, someone else might get it and weeds might grow in the hedgerows and so forth, but you can't do anything about that. You do the best you can. We were very interested in (1) doing the kind of work we wanted to do, and (2) having the kind of firm that would stand for a little more than that.

I want to give Dick Archer a lot of credit—Dick is one of the best combinations of an intellectual person and a practical person I've ever seen. He has an unbelievable facility to meld those two. He made a contribution when he was there.

John is an unbelievable value to this firm because of his moral position and the things he stood for. For example, it was really a great thing when he decided not to put his name on the firm because he knew it would be better for the firm as an institution if we got away from that. He knew you couldn't bring all of the people that would deserve to come in later, and that was a great step. John, for years, had us in this two-tiered partnership. There were only two sets of compensation. It may have been very unfair in many ways, but it established a great feeling, and John—there are other aspects which show the kind of guy John is. John has always been right on these things, and I've always agreed with him, that you can't be on the board of a corporation and represent it. You can't do that, and our firm has always been that way. We lost Memorex, not because we refused to go ahead with the case unless they renegotiated the contingent fee, which they said they would, but rather because then John refused to go on the board when the new guy came in. He was right on that. He's a very principled person. And that was his tremendous contribution to the firm, in addition to being a very good business getter. But, he had a moral authority about him.

**Formalizing the Name: Morrison & Foerster**

Wilson: In terms of Mr. Austin's decision not to have his name put on the firm, is the story that he frequently tells about you, you very much wanted Herbert Clark's name in the firm name, that he and you arrived on a compromise by picking Foerster, to be Morrison & Foerster, and the Foerster being the first Mr. Foerster [Constantine E.A. Foerster] . Is that the way you two fellows worked it out?

Raven: Well, that's right. And I was really right on that, in a way. Clark was much more the deserving person than Constantine Foerster. And, I think I would have liked the ring in the name better, Morrison & Clark. And, he was better nationally known—Clark was very nationally known. But, John had some arguments, and the historical one was a good one, when he came up with that one, I wasn't aware of that one, that that was the name of the firm in 1893, I think it was, or whenever it was.

Wilson: There's a certain irony in choosing Constantine Foerster. He was only with the firm seven years before he died.

Raven: So, that was a great argument. So, as I said at the retreat, that was sort of a face-saving thing for me. I have a lot of tremendous respect for John, and he in some ways was my mentor in other things, too, on things like that. So, I would have given in to him anyhow.

Wilson: Do you have any advice for us on how to deal with Mr. Austin's natural modesty and reticence?

Raven: Well, you just have to talk with other people like myself and Marshall Small. I've told you three examples there which are large sign-posts that tell you the kind of guy he is.

Wilson: He's very humble.

Raven: Yes, very much. He's a very wonderful person.

Wilson: We'll try to do more background.

Hicke: Could you just rattle off about five things that we should be sure to ask him about?

Raven: You should talk to him about his feeling about why lawyers should not be on the boards of their clients, for example, because that's key. Most lawyers will not come to the stake on that. You should talk to him about that.

Wilson: What about lawyers investing in their clients? You've told us a story today about, obviously Mr. Shuman wondered how "Food [Machinery]" was doing.

Raven: Yes, of course, I always kid John a little bit on that. He did a little of that you know on Memorex. But, I think he feels the same way I do about that, that you really shouldn't. It has the appearance of impropriety, in a way, what you're doing. I mean if it's a small company, I mean to have some stock in General Motors is not going to do much there.

But, it's just how he feels about people. He has been a great one to get the young people up to his ranch, and he's participated in firm affairs. He goes to the picnics, and he's a great, great person for an organization like this, and it's been very important, extremely important. He left a big mark.

Wilson: Yes, he bristles at descriptions—like "conscience of the firm" and "father of the modern Morrison." But in many respects that's how I view him. I also think there's a perception, particularly young lawyers when they start with a firm that has a 107-year track record, is the assumption, people forget it was hard. Wasn't there a period in the 50s, or 60s when a number of pivotal clients had left the firm? We lost Crocker, Food Machinery, and there had to be concern by the partners that the situation was going to keep going.

Raven: Well, yes, we went through some hard times. We suffered for the sins of our elders. There was no question about that.

Wilson: And no one remembers there were hard times.

Raven: No, but see, another thing that he believed in and that Archer believed in and I believed in, is that there shouldn't be one god and that there should be very much a common goal, and it was very much that way. And then we were quick to bring in other people like Marshall [Small] and others as they came along. So it was a partnership in the truest sense of the

word, I think. I think in some ways Dick [Archer] and I had to do with the ideas of how we would do it, because we were worried about those things, and I think we're more inclined that way. John [Austin] was the moral authority, and he was kind of the conscience and guidepost.

Wilson: Do you think the firm would have evolved in a different fashion if Mr. Archer had remained with the firm?

Raven: Probably not. I don't think so. Dick and I were pretty much in agreement on things. I always give Dick a lot of credit because he made a tremendous contribution to this firm. Dick and I thought a lot alike about how you would do it. I think we would be ahead of John on where it was going and how you get there. But John would worry about the very critical part of it, how you keep the values and so forth, and that's incredibly important.

Wilson: Well, thank you, thank you for spending so much time with us today.

*[End of Wilson/Hicke Interview of 1988]*

## V. EARLY DAYS AT MORRISON & FOERSTER

### Joining the Firm, 1952

- Hicke: Let me just ask about how you talked to John Austin, and then I want to go to your family, and then that's all for today. So anyway, John Austin came over.
- Raven: I don't remember much about it. I know that he came over to the school. Four or five years after that, there was a lot of recruiting. In fact, I did a lot of that for this firm. But we had a good talk. The first day I got in the F train to come across the Bay from Berkeley, I remember, I happened to get on the same train with him; so he brought me in to the office, and there were just a few people here. Herbert Clark, I remember; Herbert Clark was the guy I was going to work for. I didn't know it at the time. Mr. Clark was coming out of the restroom up on the 11th floor of the Crocker Building, and John introduced me and said I was going to join them. Mr. Clark looked up and said, "Another tall one, eh?" and walked down the hall.
- Hicke: He was short?
- Raven: He wasn't too short. I was tall. He was the man I ended up working for, and he was a tremendous person.
- Hicke: I want to ask you a lot more about him, but we'll put that off until next time. Do you recall why you decided on Morrison & Foerster?
- Raven: Well, I think it was John as much as anything. John's a very persuasive person, and I felt quite honored that he'd go over to Boalt to see me and, you know him, he's a very persuasive guy. He's a wonderful guy. I felt that if that was the kind of firm they've got, well, that's pretty good. I came over here, and about the first thing that happened John remembered later because that was when [Dwight D.] Eisenhower and Adlai Stevenson ran for president. John told me, I remember that summer, he said, "Gee, Hohfeld came up to me and he said, 'Mr. Austin,' (and here John was a partner by that time) he said, 'Mr. Austin, I want you to know that this will be the first time in the history of this firm that a partner has voted for a Democrat.'" John said to me, "I didn't dare tell him that I understood that Alexander Morrison had voted for Grover Cleveland twice!" *[laughter]*

### The Raven Family

Hicke: Now you've told me a little bit about Kay and about your marriage, and you told me when the children were born, but tell me more about Kay's background and her life.

Raven: Kay's parents lived down near Tustin, Michigan, where I finally ended up going to Burdell Agricultural High School in my last three years. Her father had been injured in the first world war, and he worked as a jeweler. He worked for a jewelry store. They had a beautiful place out in the country where she grew up and, of course, as I went down as a sophomore, they sent us from where we'd been going to Cadillac as freshmen in high school, everyone in that area was picked up by a bus after that. The district was changed, and we went on down to what we called Tustin, Michigan. That was the Burdell Township Agricultural School.

That's, of course, how I got to know Kay, because Kay and I were in the same class. She was the valedictorian of our class, and she was a tremendous scholar. I was only interested in basketball in those days, and baseball. I remember that I didn't want to go on the senior trip with my cousin. We wanted to get to the big city and start making money. I remember I was president of the class, and the class earned money and put it away for the senior trip. My cousin Leo and I wanted to work in Lansing and not go on the senior trip. We were trying to persuade our fellow students not to go on the trip. We had a meeting that I chaired on this issue. We moved to divide the class money among all class members. The superintendent came in, and he soon put a squash to what Leo and I were presenting. So we, Leo and I, didn't go on the trip. We went off to the big city, but we didn't have this fistful of money like we thought we should have. But Kay was an excellent student and just a beautiful woman. She went on the senior trip. But that was before I was interested in girls.

When she came back from the service, I had been down to Michigan State that winter term and spring term, and then I had a job at, I think, at Reo Motors during the summer, and I was going to school too, I think taking some course. I would go up to see her on weekends. And then she and her brother came down at the beginning of my sophomore year—their first year. She worked for a lawyer and his wife for board.

Then we got together, and we were married at the end of her first year. How did she catch up to me? We both graduated about the same time. Gee, I'll have to ask her about that, I hadn't thought about that. Of course, I really hadn't had a full year that first year; I did two out of three semesters. Then too, some of the courses that I took you could have thrown away, because when I decided I did not want to be a forester, I started taking all those courses. I took Econ and Philosophy, and I did two terms of the *Divine Comedy*. I needed something to graduate, and I thought I would like it. And I did. We had an excellent professor. There weren't many in the class, and I think he spent—well, there are three parts of Dante in that book. I did the first two, but I think I graduated before the third part.

Hicke: You left before you got to *The Inferno*. [laughter]

Raven: Yes, it was probably *Heaven* by that time.

Hicke: So you went to Berkeley, and Kay worked in the library there until Marta was born.

Raven: Right.

Hicke: Did you live in Berkeley most of the time?

Raven: We lived in an apartment down in Berkeley a little bit. Then our last year in law school, we lived about a block from the new law school in a very nice building. I don't think Marta was born there because we had to move. Then we rented a house when I came to the firm and was studying for the bar. Marta was born on my birthday, September 26, 1952. We are both eggnog babies. Shortly after she was born, I was taking the bar. I stayed over here in the city for a couple of nights when I was taking the bar. I remember Kay took Marta when she was just a little baby—about a block and a half down the street—to see Adlai Stevenson; he was speaking on campus.

Hicke: I've seen wonderful pictures of your children grown up. Tell me what they're doing and what they studied and so forth.

Raven: Marta graduated from Acalanes High School in Lafayette, California. She took classes at Linfield College in McMinnville, Oregon, and at San Jose State. She ended up graduating from U.C. Berkeley with a degree

in History. For a couple of years, she worked as a library assistant at Pillsbury, Madison & Sutro in San Francisco. In 1984, she began working on our ranch [Raven Ridge] in the Capay Valley, northwest of Sacramento. Along with my wife, Marta breeds, raises, trains, and shows Morgan horses. She is so smart! We didn't know anything about raising horses when we started. She and her mother learned everything from the beginning and have produced a number of prize-winning horses. Marta lives at the ranch full-time, and in addition to horses, she has surrounded herself with cats, dogs, birds, sheep, and peacocks. It's great to go up there. Kay and I go up every weekend now.

Matt and Brett both went to Acalanes High School and some of the earlier grades out there too, because we moved out there to Lafayette. It was about when Marta was starting school. Then Matt and Brett went on up to the University of California at Davis. Well, I take that back. Brett went first to a two-year college in Santa Rosa. In fact, he was a great basketball player there at that junior college. Then Brett went up and finished at Davis. Both Matt and Brett graduated from Davis. Brett was a great basketball player for Davis.

Then Brett decided he wanted to go to law school. In fact, he hadn't even talked to me about it. He had already picked his school, so he's a graduate of Hastings College of the Law. Then he practiced for a number of years—practiced with the Furth firm. He never really liked the law that well. He's a tremendous guy, tremendous mind. He's still practicing some, but he and his wife have a beautiful place up near Santa Rosa, and they've put in about 15 acres of grapes so far. He's very interested in grapes.

[End Tape 4, Side A]

[Begin Tape 4, Side B]

Raven: Brett spends some of his time practicing law for different people. He still does some things occasionally for the Furth firm. But he's become very interested. In fact, he took a job here this past summer, this past fall really, it's more accurate, at a winery, just to get very familiar with the—

Hicke: So he's going to make some wine?

**Marta Ellen Raven  
at Raven Ridge, Brooks, CA**



**Matt Robert Raven on  
*Carbon* at Purple Lake  
on the Pacific Coast  
Trail in the John Muir  
Wilderness with his  
dog, *Tank*. This photo  
appeared in the July  
1986 *AAA Motorlands*  
magazine.**

**Brett Lincoln Raven  
Raven Farming Company  
Santa Rosa, California**





- Raven: Yes. His wife had a minor in viticulture at Davis, and he came from Davis too.
- Hicke: What's her name?
- Raven: Diane Kleinecke. She goes by that name. Diane Kleinecke. She's a wonderful woman. We're very lucky to have two great daughters-in-law. Matt has been teaching, along with his wife, Ann, who is a veterinarian. She went to Davis too, to the veterinarian school there. Her name is Ann Rashmir-Raven. They have a daughter, who is the oldest of our grandchildren, Roxanne Leslie. That is Kay's name, you know: Leslie-Kay. Roxanne is a little older than Alec. Brett and Diane have Alec.<sup>7</sup> I have a lot of trouble with pronouncing it because I always want to say *Alex*. And boy, what a kid he is. He's has just reached his second birthday. Picking him up is like picking up a safe or something. He's a sturdy little guy.
- Hicke: Linebacker type.
- Raven: Oh, yes. Brett is 6' 7". That's a tall person. Diane is not short. She's not extra tall for a woman, but he's certainly a big guy.
- Hicke: You started to tell me about Matt.
- Raven: Matt got his Ph.D. from Ohio State University. In fact, we were pretty thrilled about this: he had the highest grades, or highest honors as a graduate from the graduate school of anyone in something like thirteen years at Ohio State University. He's very good. He wanted to teach. They taught for a while up in Montana, and he loved Montana. Ann didn't like it as well, so they are now at Mississippi State, where she teaches at the veterinarian school—they have a wonderful vet school there—and he teaches in the ag school and a lot of other things. He's involved in a lot of other things back there now. He takes a little bit after Kay's family. In fact, he reminds me a lot of Kay's family. They are all very good at mathematics, which I'm very poor at. They are very good at sciences. And Brett and Marta are more like me. We like the books and the humanities. It's interesting.

[End Tape 4, Side B]

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<sup>7</sup> Since the interview, Brett and Diane have had two more children, Paige and Nash.

Interview 3: January 14, 1998

[Begin Tape 5, Side A]

**First Impressions and Responsibilities at Morrison & Foerster**

Hicke: We're going to start this morning with your early days in the firm. Can you describe the offices to me?

Raven: Well, there were three floors. There was the so-called top floor, the eleventh floor, where all the senior partners were and some middle partners.

Hicke: I think you told me which building this was, but let's just get it on the record.

Raven: This was in the old Crocker Building on the corner of Market and Montgomery Streets, right across the street from the Palace Hotel, and it was in that triangle-shaped building. On the other side of Montgomery Street, of course, was the Crocker Bank. The main reception was on the eleventh floor, and then a number of us were on the eighth floor. For example, [Richard] Archer and John Austin and Bob Homans were all on that floor. I had my pick of offices, so I picked a good-sized office right next to Austin. Austin was on the corner, and we both could look right across Market Street to the Palace Hotel.

Hicke: How did it happen that you had your pick of offices?

Raven: Well, about three people had left right before me. I didn't know that at the time. In fact, I'd walked into an office that one of these three had vacated. One of them was Bart Phelps and one was John Meecham, and I'll have to ask Austin about the third. I picked this office because it was next to John, and John was the only one I knew. Bob Homans was on the other side of me and Dick Archer on the other side of Homans. There were two big file cabinets in the office, but I never looked at them when I first picked the office. Well, it turned out they had all of the Embassy Theatre case files. This thing had been going on over a year, and the other side, which was Dunne, Dunne & Phillips—Arthur Dunne over at Dunne, Dunne & Phillips, and Gene Bennett at Pillsbury, Madison & Sutro, and Fleming from a firm down in L.A.—they had never answered. Mr. Clark or Boice Gross. I don't know who, just

extended their time and extended their time—so that was kind of an unusual thing.

Hicke: Yes, you walked into the office that had all your case files right there.

Raven: Exactly, because Mr. Clark had put me to work on that case. Well, that was the eighth floor, and I think Bart Phelps and Johnny Meecham had been on that floor too. The fifth floor was the library. It was a very nice, excellent library. I think it was one of the best around at that time. It was well stocked, and Mr. Clark was a great believer in books, as a lot of the others were. And there was a little conference room off of the library, and John Austin told me that he used that as his office the first year he was here.

Hicke: That's why I was wondering why you had this amazing choice of offices already available to you.

Raven: Yes. But that was the situation on the offices. There was the mail room on the same floor. The office was very plain in many ways, linoleum on all the floors, I think even in the reception area on the eleventh floor, although I think Mr. Clark had carpeting in his own office. He had a beautiful big office, but by and large the offices were just working offices.

### Fellow Associates

Raven: The other associates—that's your next topic on the outline—you have George Clinton there, who apparently had come here before the war and then came back. They put together a list of the people at that time, and I see they show a hire date of July 1, 1941, and I know he was taking care of a general's affairs during the war.

Hicke: Tell me that story about what he was doing.

Raven: I'm trying to think of the general's name. He was a very well-known general; he was in charge of what was going on in the atomic field. Of course, no one knew at that time about atomic bombs. George ended up as a captain, I think, and he was this general's aide. He followed him around. In fact, he told me that he had a big briefcase that had secrets. It would be handcuffed to his arm as he moved around.

Marshall Small came here in 1954, a couple of years after I did. Kay and I lived down the Peninsula then, and I remember walking up the street with a lawyer from Pillsbury, I can't think of his name right now, but a nice guy, and I happened to tell him that I understood that this Marshall Small was coming and I understood he went to Stanford and asked him to tell me a little about him. He stopped right in the middle of the street. He said, "Well, you're through! They won't have any need for associates. They won't have any need for you! Marshall can do all that work himself." And he told me what a great scholar he was and what a hard worker he was and so on.

Hicke: That's great. I suppose you told Marshall that.

Raven: I did, of course. And he was all those things and is all those things. And then, I'm looking at this list here, the typed ones are those of us, I guess, who stayed. There were a number who didn't. Well, I show Bryant Foerster died.

Hicke: Tell me about Bryant Foerster.

Raven: Bryant Foerster was Roland's son, and he was very good. He had been in the graduating class when I came to Boalt. Let's see, he died in 1953. He must have been the class of 1950 or 1951, something like that. He was married, but there had been a divorce. In fact, Chuck Hanger married his wife. But I think they had a son. I know they had a son. Then Scott Harrington . . .

Hicke: Do you want to tell me about Bryant's death?

Raven: Well, all I know is that he had this Christmas party, and I didn't go for some reason, why, I don't know. But I remember coming in the next morning, and he didn't show up for quite a while. And finally someone went up there to his apartment. It might have even been Austin, I don't know, although I don't think it was. And they found him. He had died.

Hicke: A heart attack?

Raven: You know, I don't remember. But it was, of course, Roland Foerster's son, and that was quite a blow around the firm.

Hicke: What is the date you have written down there?

Raven: Well, he died in 1952 after I came. I believe he died during the Christmas holiday season. He was a great guy. I liked him. I remember I'd ask him questions down in the library, and he always had a ready answer. Then Scott Harrington came here from Stanford, and then a fellow named Bob Beach, Robert Beach, who is still around town. And then a Russell Teasdale. Russ's claim to fame is that he ran against Willie Brown, the first time Willie Brown ran for the [California State] Assembly. They were both from the same neighborhood in the area out there. Of course, Willie beat him. But I think Russ is still around someplace. These people eventually left: Harrington, Bob Beach, and Russell Teasdale. Then Howard Downs came, and I don't know exactly the date because they don't have it on this chart. He started working with me on the Embassy [Theatre] case right away, and he was a tremendous lawyer, a very good lawyer. I learned a lot from him. He was younger than I was, but when he was in college, in university, he was a great debater and things like that. He was very good. But he decided to go over to another firm. It's a well-known firm. But he didn't stay there very long. Then he went out on his own and he did very well. He was a plaintiff's lawyer and he did very, very well. Then for some years he's been teaching out at Hastings. I believe he still teaches out there. I'm sure he's an excellent teacher. He's a very, very articulate guy.

Then Bob Nagle also joined us. Bob Nagle has had quite a life. Bob Nagle worked with Howard and me on the Embassy Theatre case, among other things, and eventually he went to Spreckels. He became general counsel down at Spreckels, and then he went back to the big office of the sugar company, C&H. Then eventually he was president of C&H in Hawaii, and then he came back and went to the Brobeck firm for a while. But in recent years he's been practicing on his own. A wonderful person. I just happened to put his name down, because it was in that group that I remember in addition to the ones that stayed, so to speak.

Hicke: That's good. That's exactly what I wanted. We left off up here [on the list] with Frank Latcham.

Raven: Frank started out at the Western Reserve University in Ohio in the tax field, and he came out to join us in the tax field. He was not very far behind me. It was 1954, August, so it was a couple of years behind me.

Girvan Peck came also, I see, in 1954, and Marshall Small, 1954. Bill Berkman didn't come until 1958 and Doug White. I was not correct a minute ago in saying these were the ones who stayed, because some of them didn't. Doug White is gone, and Berkman is gone. William Berkman ended up as the top general in Washington in charge of all of the reserves in the country. He lives over in Marin County now.

I'll give you the list or I'll have a copy made of it so I can keep a copy.

Hicke: Yes. Did the associates all go out to lunch together or socialize in some manner?

Raven: Oh yes. Not a lot of that. It was a pretty hard-working place in those days. But they were all friends. Like Mr. Clark had Kay and me up one time, and Bob Beech and his wife were there. There would be things like that.

### Herbert W. Clark

Hicke: Okay. Are we ready then to go back to the earlier history of the firm?

Raven: Yes.

Hicke: Well, I know you are going to tell me a lot about Herbert Clark, because you worked with him. So maybe we can talk about him in connection with the work you did.

Raven: Mr. Clark was a graduate of the University of Michigan Law School. He kept those contacts, and was very active in the American Bar Association with a lot of the top people at that time. Apparently when he got out of law school, he went to New Mexico, and it wasn't a state at that time, and he was in charge of the government attorneys in that area.

Hicke: Like the U.S. Attorney's Office?

Raven: Yes. Like the U.S. Attorney's Office, except it was just a federal office in a territory. And he came from there to the firm. Of course, that was many years back. I came to know him very well, because I was put on his team and I worked with him during the period that he was continuing to practice. He eventually became ill, and in fact that's why I tried the Embassy Theatre case. And that's why Dick Archer stepped in and tried

a lot of the big antitrust cases that were going at that time, too. But he was a wonderful man.

I remember Edward P. Murphy was the judge in the Embassy case, and on the other side of the case, we had Pillsbury, with Gene Bennett, Col. Bennett, as the lead person. We had Arthur Dunne, a tremendous lawyer, and Mac Fleming from Los Angeles.

I remember one time being out with Gene Bennett. We were out arguing before Judge Murphy, and Mr. Clark came with me, and he took a seat up in the jury box. After Bennett and I were through, Murphy, being courteous, had asked Mr. Clark, "Mr. Clark, do you have anything to add?" Mr. Clark said, "No, but I thought Mr. Raven had the best of it." Gene kind of smiled. Mr. Clark stuck up for his people.

In 1953, the year Dwight D. Eisenhower became president, Reconstruction Finance Corporation came to Mr. Clark to be their attorneys in the West, and they had a lot of things going on. I think Mr. Clark's hourly rate for the RFC was something like \$12.00 or \$12.50, and mine was something like \$8.00. Mrs. [Ruth] Foster, Clark's secretary, really looked out for him and never let him do much on it because of the low rate, so I did all that Reconstruction Finance Corporation work down in Monterey, where the sardines and fish had left the Bay. I probably sold about ten canneries down in Monterey.

Embassy Theatre Case: *McLean, et al. v. Paramount*

Raven: Mr. Clark had great confidence in people that he got to know and trusted. I was urging him to get started on discovery, and so we noticed some depositions. I mean, the years were going along. It took a long time for this to just go along. And so Mr. Clark asked whom we should depose first, and I said we ought to take Herman Webber's deposition. Herman Webber was one of three brothers who owned a big store here in San Francisco. More important than that, he was the top man at 20th Century Fox and Fox West Coast, and was dealing with theaters. So we set his deposition down, but we never really got to it.

Now, this gives you some idea how difficult it was to get this thing moving. In November or December I took his deposition at Dunne's office. I got a big outline ready for Mr. Clark, and we went over to Mr. Dunne's office. Mr. Dunne had two of his good people there: Blandian

Colburn, for one, who later went out and clerked for the Supreme Court for many years. Bennett had three of his people there, and Mac Fleming was there from Los Angeles. So that was the defense lineup.

Mr. Clark was talking to Gene Bennett, and I finally said to Mr. Clark that I thought we should get started, because the reporter and everyone was there. Mr. Clark said fine and that he thought I could do it and he was going to run along. Of course, I had never taken a deposition before. I don't think I had ever been in a deposition before. But I was taking the deposition of one of the most canny people—expert in the motion picture industry with his three lawyers who were among the best in California. It was quite an experience. I took his deposition for four days by myself there.

Mr. Bennett taught me a lot. Mr. Bennett had a lot to do with training me. I was not used to this. For example, I asked for the first exhibit to be marked, and Gene Bennett said, "Why, Mr. Raven, you don't think you are offering this in evidence at this time?" "No," I said, "I'm just marking it as an exhibit, so we know when I am asking him about it, we have a record here." "Well," he said, "you should ask that it be marked as an exhibit in order for examination only." In other words, he wanted me to be very explicit, which was good. That's the way it should be. A few years later, I happened to see him across the street, and I walked across the street. I still called him Mr. Bennett. I said that I just wanted to come over and say that "I know that I was difficult at times, going back to that old Embassy Theatre case, but you were a wonderful teacher. I want you to know how much I appreciate that." He thanked me, smiled, and walked on down the street. He died two months later. So I was glad I had taken the opportunity to express my gratitude to him.

I worked on a number of cases with Mr. Clark throughout this entire period. Usually they were big cases, because that was the kind of cases, by and large, that he took.

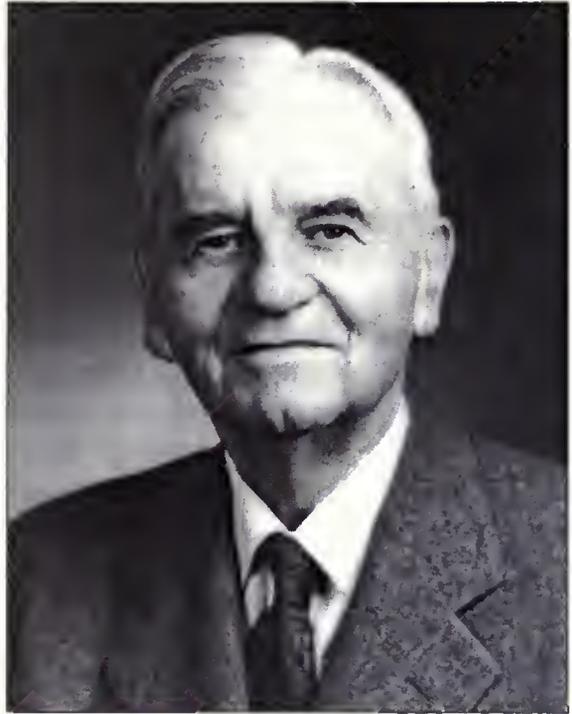
### Marsden Case

Raven: I want to tell you an important story about Mr. Clark. We had a big case; I think it was the Marsden case. It was from this wealthy lady, and she and her husband had a big business in the Philippines. She'd been kept in the Philippines, of course, by the Japanese all that time over

**Morrison & Foerster Partners**



**Herbert W. Clark (1882-1964)**



**Edward Hohfeld (1875-1966)**



**J. Franklin Shuman (1884-1961)**



**Roland C. Foerster (1893-1961)**  
*[Son of Co-Founder, Constantine E. A. Foerster]*



there. The case we had was for her, and we won it before a district court judge here, and there was a lot of money involved. But then plaintiffs appealed, and we got reversed. I still cannot understand the reversal. But we got reversed.

That night we were over at the Palace Hotel, and Mr. Clark would quite often do this: if we were going to stay and work late, we would go to the Garden Court at the Palace Hotel and have a nice meal. Mr. Clark had had his martini, and he finally asked what was wrong with me, because I was down. He asked what was bothering me. I said, "Well, Mr. Clark, we had this case won, a very important case, and I still think we were right, and now we've lost it." And he said, "Is that what's worrying you?" I admitted that losing that case was bothering me. He said, "Well, you've got to learn what lawyering is really about, because there are clients and there are lawyers. And when the lawyers represent the clients, they do the very best job that they can do. They polish every issue, etc." But he went on to explain that it was up to the court—up to the judge—how it's going to be decided. He asked, "Didn't you think we did a good job?" I said that we had done a very good job, and that's why I felt so badly about it. "Well," he said, "You should feel good about the fact that we did a good job, but the fact that we lost isn't relevant. Someone is always going to lose." Mr. Clark had given me a very good lesson in a very short but orderly way, while we were having dinner at the Palace Court.

**Edward Hohfeld, Franklin Shuman, Leon de Fremery**

Hicke: All right, then we've got Edward Hohfeld.

Raven: Yes. I was very fortunate to work with Mr. Hohfeld quite a little. He was a tremendously able lawyer, too. You probably know his history of the May T. Morrison Trust and all he did to build that and make a great thing out of that. I had a number of cases with him. He was quite old at that time. He was, I think, "of counsel" at that time. He had come to the firm in this way: his brother, Wesley Hohfeld, had been here first. I got this story from Mr. Clark. This was before my time. Wesley Hohfeld was here first, and Wesley decided to go to Stanford and teach. He told the people in charge here, "But I have a young man who can do this job," and that's when he brought in his brother. Wesley then became quite famous. Wesley was at Stanford quite a while, but then he went to

Yale, and he developed the Hohfeldian Concepts (rights, duties, and obligations). It's a whole structure—how you come at legal problems and so forth.

Hicke: It's a theory for teaching purposes?

Raven: It's the nomenclature. I remember I studied it in one of my courses. I had seen some references to it. So, he was one of the people who has passed through here. Edward Hohfeld was a very strong, expert lawyer. I think in those days there was more of a blurring of the distinctions between types of law practice. You weren't so strictly categorized as a "corporate" or "litigation" or "tax" attorney. For example, if a case came along, say for the Boy Scouts, he got into it, and I helped him do it.

Hicke: How did the work get assigned? Did some partner just come around and say, "Hey, do you have time to do this?" Or did somebody assign the associates to work with a specific partner?

Raven: Well, I never quite understood that in those days. It became very orderly later. But I never quite understood that. I think there was a general knowledge that I was working for Mr. Clark on this Embassy Theatre case and some other matters. But on the other hand, I worked with Mr. Franklin Shuman a lot. I worked with Mr. Shuman on banking matters. And I worked with [Forrest] Cobb a lot when he came back up to San Francisco. He had been in the Morrison San Diego office, usually on Mr. Clark's matters, though.

I remember doing a case for Mr. Shuman one time, and we were going to substitute a party in, and he wanted me to draw up a document on it. I guess it was like a substitution, or something that no longer exists in the state system now. I called him and asked him the name of the person so I could put it in. "Don't worry about that," he said, "I'll tell you at the right time." So I prepared the document and sent it up to him. I didn't hear from him for a couple of days, which was kind of unusual. He called me one day, so I went up to see him. He had kind of a twinkle in his eye and said, "Well, Bob, what are we going to do with this? Smith or whatever his name is, is dead!" I liked Mr. Shuman, though. He was an interesting guy.

He would call me up quite often. I knew he had a lot of trouble breathing. We would talk, but he would usually do the telephoning. He would call and

talk to the clients. I was a little sorry when he said, "Well, Bob, let's call so-and-so up. Pick up that phone and call them up." I thought that this was kind of odd. But I'm not very observing sometimes, so I just picked up the phone and I started talking. I heard a mumbling or a noise, and I looked around, and then I saw for the first time an oxygen tank and a mask on his face. I didn't notice it when I went in. So he stuck it out quite to the end. Although he was one of the first to die in that group. He died before Mr. Clark.

Shuman was respected as a very good banking lawyer. He was an interesting person. He would come down from the old Crocker Building, and he would go over to the bank every morning. He went to talk to the people over there, because he was used to working with them. He would jaywalk every time. The cops would try to stop him, but they could never stop him. He did that kind of work, and we continued it for many years for the Bankers Association.

Hicke: I have here that Hohfeld retired in 1946, but he must have continued on.

Raven: Well, he continued to be around here for quite a while. Yes. That's right. He was retired I think when I knew him. I think he was retired when he told John about who he was to vote for in '52.

Hicke: Mr. Foerster died in '61. Clark in '64. Shuman in '61. Who else have we got here on the list? You don't have to talk about all these people.

Raven: Well, an excellent one is Leon de Fremery. I didn't work with de Fremery at all. I might have on some minor little matter. He was a great tax lawyer. He was a great sailor. He always kept a boat on the Bay, and I know a lot of the people would go out. I didn't, because I don't think he had it then. He retired not too long after I came here. I remember he had a boat built on the East Coast and then he took it to Europe with him. We had a party for him up at the Bohemian Club for his leaving. Shuman said, "Well, Leon, if you want to do this and go on that kind of a jaunt, that's up to you, but as for me, they're going to have to carry me out of this place feet first." And that's just about what happened. Shuman was like that. A lovable guy in many ways.

### Roland Foerster, Forrest Cobb, and William Holloway

Hicke: What about Roland Foerster?

Raven: I don't think I ever worked with Mr. Roland Foerster on anything. He was a corporate lawyer, and he's a charming person. My wife liked him. We would go to these firm parties, and she thought he walked on water, because he had such a way about him. He was a wonderful guy. He always had this big cigar, though, and you were always worried about a few ashes falling on the floor.

Another story about Herbert Clark: Mr. Clark and I were out talking to Judge Ed Murphy in his chambers. We were out there alone for some reason. The judge had beautiful chambers with a large desk. Mr. Clark, quite often when he smoked, I don't know why, but he would let the ash build out, and it seemed to be smoking. He smoked cigarettes, not cigars, but cigarettes that seemed to allow that. I saw Murphy looking at him. Well, he wasn't looking at Mr. Clark; he was looking at the cigarette. All at once, he couldn't stand it. He jumped up out of his chair, and he grabbed his ashtray and was running around the table, and just before he got to Mr. Clark, the ash fell on the floor. I remember Mr. Clark said, "Oh judge, don't worry about that." Isn't it strange how some things like that will stay in your mind forever?

So, I didn't have very much to do with Roland [Foerster] other than see him at parties and so forth. He was counsel for FMC [Food Machinery Corp.]. In fact, he died back there when he was going to an FMC board meeting in New York.

Now, the next fellow was one of my real favorites, Forrest Cobb. I didn't work with him directly, but he worked a lot with Mr. Clark, and so then I would work with Forrest Cobb on things. That big case that Mr. Clark got into and Forrest got into was Miller & Lux. C. Ray Robinson was the plaintiff. *Miller & Lux v. Nickel*<sup>8</sup> Mr. Clark was on that, and I remember Forrest worked with him on that. I remember this young lawyer would come over and talk to Forrest. Mr. Clark would be gone quite often. He had a lot of things to attend to back East. I remember Forrest called me up, and that's how I met this young lawyer. I can't give you his name right now, but it'll come back to me. He worked for C. Ray Robinson.

Hicke: Opposing counsel?

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<sup>8</sup> *Miller & Lux Incorporated v. J. Leroy Nickel, Jr., et al.*

Raven: Yes. I worked on a number of things with Mr. Cobb which he was working on for Mr. Clark. He was a good lawyer, and a very nice guy. I knew his son who I think was down at the Brobeck firm. I think he later died. He might even have been in Bryant Foerster's class, because it was about that time.

I got to know Hart Clinton quite well. I did a case for him one time, and I remember I was concerned because Sam Kagel, great lawyer who handles all those labor cases as an arbitrator, Sam was there, and I thought we would lose the case. The man was a very elderly person that I was examining, but we caught him in a flat lie, and we won. I told Hart [J. Hart Clinton] that I hadn't thought we would win the case, and he said you can't fool around with Sam. You were on the right side.

Hicke: Did you do any other work with Sam Kagel?

Raven: No. That's the only thing I ever did. I got to know him a little bit because of that. I knew his son, who is really following his footsteps. I think he's doing labor mediation. I'm sure he is. Sam Kagel is an interesting guy.

Hicke: Legendary.

Raven: Great mind. Hart thought I did really well.

Everyone loved "Judge" [William L.] Holloway. He was a tremendous lawyer. I didn't work with him because he was a business lawyer. Marshall Small would work with him or John Austin. I saw him one time in a room. For some reason I was in that room that was full of lawyers. We had to get out a paper right away, and we all stood there. There was a bunch of us, probably fifteen lawyers standing around, a lot of them from out of town, most of them. And Holloway called in his secretary. He had dictated this document. She typed it up, and everyone looked at it, and it was just great.

Hicke: Just off the top of his head?

Raven: Yes. He was very good at that type of thing. He was noted for that. He was really quick. He was also a tremendous person. I don't know anyone that didn't like Holloway. He then became the manager for a while. He did it until Dick Archer did it for a while. Judge did it for quite a few years, as I recall.

Hicke: Was he in that position when you joined the firm?

Raven: That's a good question, and I was trying to think of the answer to that question the other day a little bit. I don't believe he was. I think Morrison, Foerster, Holloway, Clinton and Clark were all the managing partners. I found out when I became a partner, we would go up to the Bohemian Club, and they had that room, and they would have their lunches there, and really during the early days that was pretty much what it was. I can still remember it, because Mr. Shuman would be there first, and some of us young people who wanted to be on time would be there. When Foerster would come in, Frank would ask how is Food Machinery doing? He was interested in the stock market. And then Mr. Clark would come in and Shuman would ask how Crude Oil was doing, or something like that. Mr. Clark would kind of give him the back of his hand. He didn't want to be talking about how these companies were doing. They were all very good lawyers. The proof of that is that they all did very well.

Hicke: Maybe at that point, "managing partner" was a concept that hadn't quite evolved yet?

Raven: Well, it could be. One time Mr. Shuman called me up, and Foerster was there, and I think Bud Kreis was there and all of them. Shuman said, "Bob, you were telling me about this new case by the Supreme Court of California." I forget the name of the case now, but it changed the law in some respect. And he said, "You said it does this." I said that that was correct. Foerster said he couldn't believe it, and so did someone else. So I finally had to go down and get the book. I went down and found the Digest Sheet. But I remember being in front of all those guys. Shuman told me that they thought I must be nuts, and they wanted to see this young guy before he got off on too many wild journeys. But they were great people. Although a little shocked when I showed them the case, they supported me.

### Alexander F. Morrison Lectureship

Raven: Francis Hutchens, I didn't know. Oh, I knew who he was, but I didn't work with him or anything. I did know Wendell Fitzgerald. He was a wonderful person. The reason I got to know him was because he handled the Morrison Lectures for many years. Are you familiar with that?

Hicke: Well, let's put a bit about it on tape.

Raven: As I understand it, after Morrison's death, Mr. Clark and Shuman and Hohfeld, and I don't know who else, put together a fund that I call the Morrison Lectures, but there is probably a fancier name for lectures, given at the [Annual Meeting] of the State Bar every year. They would get some tremendous speakers. Fitz was doing that. Fitz became very ill, and that's how I got started in it. He asked me if I would take on the next one, Lord Denning. This tremendous person from England was over in the Pacific with his wife, and he was going to come through, and I was to take care of them. He was the Morrison lecturer that year. He was a great guy. He and his wife came out to our home and brought a gift for our little daughter and everything else. They were great people. Last year, I checked with our London office, and they advised me Lord Denning was still alive.

I went up to get him at the Fairmont Hotel to take him down and introduce him, and his room was full of books and papers. He walked down there without anything, as a good English barrister could do, and gave one of the greatest, moving speeches that you could ever possibly hope to hear. That's when I became responsible for the Morrison Lecture. I did it for ten years. And then James Brosnahan took over. Jack Londen was in charge after Brosnahan. And for the last couple of years, Laurie Zelon has been in charge.

It was a great experience because you met some tremendous people. For the Morrison lecturer one year, I had Sam Ervin, judge from North Carolina, who was a great senator. I had the senator from Idaho, Frank Church, as a speaker another year. William Rehnquist and I had been on a committee together, the Ninth Circuit Lawyer's Committee. I think the Chief Justice had decided that it was time to have some young people on it, so he put Rehnquist and me on it. That's how Kay and I got to know Bill Rehnquist and his wife. They were wonderful people. When Bill went on the Supreme Court, I sent him a letter right away and asked him to be the Morrison Lecturer. He said he would love to do it, but he was just starting there, and he couldn't do it that year, "but I certainly want to be kept in mind." I sent him another letter the following year, so he had to come. We had the meeting in Sacramento, so he spoke up there. He's quite a guy. We are so far apart in politics, but he is a tremendous person.

Hicke: And so you did this for about ten years, 1969-1978. Your basic job was to—

Raven: To find a lecturer and work with them. I think Brosnahan did it for about a year. And then others have followed. Jack Londen did it. Laurie Zelon from Los Angeles is doing it now. We have had some tremendous speakers over the years. Have you ever seen a list of speakers?

Hicke: No. I was just going to say that at some point maybe we could find that.

Raven: We can get one. In fact, Brosnahan broke all the rules, because we had never had anyone from California. We always took the position they had to come from outside California. I always thought it would be nice to invite Shirley Hufstедler, but I didn't want to break the rules. Jim got in a hole one time when someone turned him down at the last minute, so he drafted me. I was president of the American Bar Association at the time, and I think I am the only Morrison person that has ever been a Morrison Lecturer.<sup>9</sup> I felt like some of the old deceased partners might come up out of their grave and shoot me for doing something like that.

#### Morrison Lectures Organized by Bob Raven

YEAR	SPEAKER	TITLE
1969	Right Hon. Lloyd Denning Master of the Rolls, London, England	Life and Law in Our Time
1970	Edward Bennett Williams <i>Senior Partner, Williams &amp; Connolly, Washington, DC</i>	Crime, Punishment, Violence and Dissent: A Crisis of Authority
1971	Sam J. Ervin, Jr. <i>United States Senator, NC</i>	Fear of Freedom
1972	Prof. Alexander M. Bickel <i>Yale Law School (1956- ). He represented the NY Times in the Pentagon Papers Case (1971).</i>	The "Uninhibited, Robust and Wide-Open" First Amendment
1973	Hon. Edward T. Gignous <i>US District Court, Maine</i>	Some Reflections of a Trial Judge
1974	Justice William H. Rehnquist <i>Supreme Court of the United States</i>	What Lawyers Ought to Know About Judges

<sup>9</sup> 1987. Robert D. Raven, speaker. Lecture title: "The Constitution."

2000. Shirley & Seth Hufstедler, co-speakers. Lecture title: "Once and Future Law."

YEAR	SPEAKER	TITLE
1975	<b>Roger C. Cramton</b> <i>Dean, Cornell Law School, Chairman of the Board of Directors of the Legal Services Corp.</i>	The Legal Services Corporation – The Task Ahead
1976	<b>Frank Church</b> <i>United States Senator, Idaho</i>	Ending Emergency Government
1977	<b>Francis T.P. Plimpton</b> <i>Partner, Debevoise &amp; Plimpton; former US Deputy Representative to the United Nations; President, Bar Association of the City of New York; father of George Plimpton</i>	What About the Next 50 Years?
1978	<b>Eleanor Holmes Norton</b> <i>Chair, US Equal Employment Opportunity Commission</i>	Comments on Work of the Commission
1979	<b>Chesterfield Smith, Esq.</b> <i>Partner, Holland &amp; Knight, LLP, Tampa, Florida</i>	The Old Lawyer Said: I Look Out for My Paying Clients.” The Young Lawyer Responded, “But Good Lawyers Must Also Do Some Free Public Service

### Other Members of the Firm

Hicke: We’re down to Emory Morris.

Raven: Emory Morris I knew a little bit, but he was not here then.

Hicke: And then Noel Troy.

Raven: I knew him, and I think I might have even had some phone calls with him at one time, or maybe even a letter, but I don’t remember much about him. Garrett Elmore—I knew of him, and I’m sure I’ve met him. Now Boice Gross was a different thing, because he was here at that time. Boice was the one who was supposed to be working with Mr. Clark on the Embassy Theatre case.

Hicke: But you moved in with the files.

Raven: That’s right. I worked with Boice some, but Boice left not too long after that; maybe three or four years after that. Coolidge Kreis, that’s Bud Kreis!

Well, of course, I know I worked a few times with Bud. I always admired how neat he kept his office. He's the only lawyer that I have ever seen that always has a clean desk top. And if you start talking about a code section or something, he would pull a door open and reach in and get the code and tell you about it. He was very meticulous that way. I never worked with him, but I liked him very much. He was a wonderful person. He and Fitzgerald were quite close. I think they came at about the same time.

[End Tape 5, Side B]

[Begin Tape 6, Side A]

### Dave Nelson and Recruiting

Hicke: When did Dave Nelson come?

Raven: Dave came in 1959. I got to know Dave very well, even though he was in the corporate department and worked with John and Marshall and that group. I had something to do with changing the recruiting. As I've said, John told me that the first time they had ever gone to a school to interview someone was when he came over to see me. But of course, that was the way to do it, and that's the way it was being done, after that, or even at that time. We started making the circuits. When I say "we" I think I went the first time, but then after that, Dave Nelson and I would go. We did that for quite a few years. We would really make the circuit, and boy, it was a grind! We would hit Harvard, Yale, Columbia, and all of those on the East Coast. We'd go to Minnesota and Michigan. We interviewed at a lot of schools. Dave probably continued to do it after I didn't, because there came a time when I was too busy to do it. Certainly Dave and I started that, with permission of the firm and all that. Of course, we talked about that at firm meetings, how we ought to get out there and recruit.

Hicke: So it was kind of your idea to do this on a regular basis?

Raven: Well, yes. Dave's too. I don't want to take all the credit for it.

Hicke: I mean it didn't come from the top down.

Raven: No, they never did it that way before. In fact, it was very unusual, John told me, for him to come over and interview me. Just because Frank Newman had called him. It was pretty true at most firms, that they were used to

having people come to their firm. But then it got to be quite a competitive business, and you had to go back there and talk to those people.

Hicke: Since we're on this, tell me what you were looking for when you would go to interview students.

Raven: Well, we were looking for people who had done quite well in school in the first place.

Hicke: Grades.

Raven: Yes. And you didn't necessarily insist on law review, because a lot of schools had a broader class than that. But you wanted to be sure if we liked their character; we got a feel for them.

Hicke: And what would you tell them about the firm?

Raven: Well, we probably exaggerated some. *[laughter]* We sure did. Then of course we would quite often bring them back. We usually wouldn't invite them right there. But maybe we would send them a letter and invite them back. I remember Richard Kinyon always kids me a little bit about how I came out and picked him up at the airport. Well, he was the editor of the law review at Minnesota. I should come pick him up *[laughter]*.

Hicke: That was unusual service?

Raven: Well, apparently it was. But I think we did more of that than any others. We were quite aggressive because certainly Dave and certainly I and others realized that that's a pretty competitive field out there. And it was. And in no time, that was how it was done. Probably before we even got into it. In fact, one day when Dave and I were at Yale, Richard Nixon was interviewing across the street for his firm in Los Angeles.

Hicke: That is surprising! Did you know him?

Raven: No. I didn't know him. But we found out, of course, that people were going over there. They had a suite over in the hotel.

### An Associate's Routine

Hicke: Let's go back to the 1950s when you first came. Tell me a little bit about your daily routine, what time you would get to work, just a typical day.

- Raven: Well, I know it became earlier and earlier. But in the beginning, I am sure I didn't come in much earlier than everyone else did, which was probably around 9:00 am, which was unusual. But I know the time came when I used to come in at 6:00 am, as my wife will tell you. I had a lot of things going on. Dick Archer was an early riser. He would be in early.
- Hicke: This is back in the 50s, now. So, you came in at 9:00 am.
- Raven: Certainly the first day I did, because I got on the streetcar and came in with John. I think we got in here about that time. But you know, that's strange; 9:00 o'clock soon became, as far as I was concerned, a very late time to be getting to work. We had a lot of people who didn't feel that way about it. We still have some.
- Hicke: At 9:00 o'clock, was everybody there by then? Or did people come in much earlier? or much later?
- Raven: I think the younger people, Austin, Archer, Homans, we would be there. Mr. Clark and Foerster, certainly Hohfeld, they were all getting up in years. It would be too much to expect them to be punctual.
- Hicke: Hohfeld had already been retired for six years or something like that and maybe the others. . .
- Raven: Yes. He was retired when I came to the firm.
- Hicke: OK. What about lunch? What would you do for lunch?
- Raven: Well, I remember I would quite often go to lunch with Dick Archer, and we would go up Market Street a little bit from the Crocker Building, and there was a little restaurant right about four or five doors south.
- Hicke: Was that the Fly Trap?
- Raven: No. The Fly Trap was downstairs at the beginning of the next block up. Every once in a while Mr. Clark would take us, for example, on Saturdays, Mr. Clark, Dick, and I were always in there, and he would always take us to lunch at the Bohemian Club. We would stop in a bookstore on the way back, and he would buy us a book. He was a wonderful person. In fact, when he died, his books, I don't know if he had left any instructions—you know, he didn't have a funeral, and I always felt badly about that; well, that

would be like Mr. Clark. But he had requested that the books that he had down here, and he had quite a few, were divided up between Dick and me. Miss Ruth Foster, his secretary, did that. Ruth Foster was quite a lady. I was shocked to find out she just died recently. I thought she had been dead for some time, because I used to keep in touch with her, and we had her up here a few times. I think we might have even had her in some of the other offices. When I started calling, it was disconnected. So I thought, well, I bet she's passed on. She was quite old then. That was about ten years ago. I think she just died last year. We just found about it after it happened.

She was a tremendous person. She was a very tall lady, and she ran that office—let me give you an example. I was one of her favorites. I came up there one time, and I wasn't a partner yet. I think I got to become a partner in four years and three months, I forget what it was. But I came up there with some timenotes and some billing stuff. She actually snatched them out of my hand! She said "ROBERT!" It wasn't "Bob" that time. It was "ROBERT!" She said, "You're not supposed to have those. Associates are not supposed to have those." She took them away from me. *[laughter]* But she was a wonderful person. She was just a great secretary for Mr. Clark. He had a big office, a very nice office, and a beautiful old desk. I think I've got his desk now at home.

Hicke: Did she have an office herself?

Raven: Oh, she had a pretty good-sized office. It looked about as big as mine. It wasn't quite, but she had a pretty good-sized office.

Hicke: How about other secretaries in the early 50s?

Raven: I'm trying to think of the name of the lady who ran all of the secretaries. Shuman had a secretary, but she didn't come in very often, so he tended to use mine. He seemed to have a sight into my office, because I would just call her in and was going to do something, you know, and he would say "Bob, can you spare . . .?" *[laughter]* That was a little thing. But I have had some tremendous secretaries down through the years. Miss Cobb—I called her Miss Cobb—was one of my great secretaries for many years. For example, I can remember especially when I was on the ABA [American Bar Association] Judiciary Committee and the two years when I was Chair, which was the last two years of the Carter Administration when they had the Omnibus Judgeship Bill. I think we put through something like 140 judges

in those two years—federal judges. It would be a good lesson for what's going on back there now.

I remember we did some work for Pacific Plantronics. They were just coming out with those headsets. And I got a headset from them that I could plug in my ear with a long, long line and walk all over my office and take phone calls or talk to Miss Cobb about it. I wore that thing all the time. I spent a good part of my time, those two years, working on those. Bernie Segal was the founder of the ABA Judiciary Committee. He persuaded President Eisenhower that such a committee was needed by the president and Congress.

Hicke: We'll get a lot more of that later. Sounds like you had an early version of a mobile phone.

Raven: Yes. It was great.

Hicke: What about the typewriters and the other office machines in the early days?

Raven: I remember this: at the beginning, when secretaries were making several copies of a document, they would bring them on—I don't know what they're called; they looked like blue ink to me.

Hicke: Blue ink?

Raven: Yes. And then sometimes, if we were in a hurry, some of the attorneys would go in and help them. They would have page one here, like this, because we were maybe going to have a lot of pages. They didn't really trust us to get them right all the time, but they'd march around that big conference table—Oh, it was terribly slow, you know, and put those together. Whether it was a complaint or whether it was a memo of points and authorities for the court, or whatever.

Hicke: How many copies would you need, usually?

Raven: Well, it changed a lot, but like in the Embassy Theatre case, you needed a lot, because you had Bennett with his four lawyers and Dunne with his two lawyers, and so you needed a lot. I kind of remember that if you didn't handle it just right, you would get some of that blue on your hand, and it didn't come off. But that went on for some time before that came to an end.

- Hicke: Before Xerox. Anything else? Did you have a Telex?
- Raven: We had Milly [Remilda Costello] on the telephone. We had two operators; they were on another floor. Milly had a good voice; you could hear her. She only died a few years ago. She was a wonderful person. She was good. She would put you through and so forth and so on.
- Hicke: A simple switchboard?
- Raven: Yes. Then we had Miss Murphy, who was on the desk on the eleventh floor as you came out of the birdcage elevators. She was a receptionist. She was a wonderful person too. Did you see the birdcage elevators when those were in place down in the old Crocker Building? Oh, yes, they had birdcage elevators, and they had operators for every one all the time we were there, until we moved and they tore it down and we came back to the new building. In fact, I didn't know it but when I first went there, of course, Herman Phleger's firm was there too. They were still there on one of the floors. And I understand that if Mr. Hohfeld and Mr. Phleger got out of the elevator at the same time, not a word was exchanged. *[laughter]*
- We had a very good library. We had a very good librarian, and we had the books. I think we had as good a library as firms that were bigger at that time, like Pillsbury.
- Hicke: That was Mr. Clark, probably.
- Raven: Yes. Mr. Clark believed in books. We had a wonderful library and a good working area down there. I told you about that little conference room. Quite often you could use that. People wouldn't be in there. But there was a lot of travel back and forth on the elevator, because on the fifth floor was the library, on the eighth floor a lot of us working guys, and then the eleventh floor. That eleventh floor was put on, as I understand it, I hope I'm getting this right, for our people on the breakup of the firm. But that was a late addition—the eleventh floor. That was not part of the original old Crocker Building.
- Hicke: And the firm leased offices from Crocker Bank?
- Raven: Crocker Bank, I'm sure, was the leasing agency. Yes. It was a great old building in many ways.

Hicke: The elevators sound wonderful.

Raven: Do you mind if I digress for a minute? We had a very odd elevator operator. You would get off, and he would be in the middle of a sentence—and he was a short heavy-set guy—you might not get on these elevators the rest of that day. You get on the next day, and he would pick up right where he left off. I had to catch on: what the hell is he talking about? He was in the middle of a sentence, and he would just continue. *[laughter]* Some of those things you can't help but remember. Had a great elevator crew, three or four of them. There was a guy down at the bottom watching—I suppose that was a union requirement—a guy that was kind of in charge. Probably three birdcage elevators.

[End Tape 6, Side A]

## VI. BAR ASSOCIATIONS: SAN FRANCISCO, CALIFORNIA, and AMERICAN BARS

Interview 4: March 4, 1998

[Begin Tape 7, Side A]

### President, State Bar of California, 1981

- Hicke: This morning we're going to talk about your work with the state bar of California. Please tell me when you started to become active in this, and why.
- Raven: I guess my entrée in a way was from the city bar [Bar Association of San Francisco]. I became a delegate from the San Francisco bar at the annual meetings of the state bar, and that's how I got to know people. I went on the Board of Governors, and then I was going to run for president of the state bar, and that fall—that would have been the fall of '70—I had a big antitrust case. I thought I could persuade the client up in Washington—a big client—that I had a good team and that they could do it, but no, they said, "Bob, this is a great, important case, and we want you to try it." So I told my partners, I said, "I think I'll just give up on the state bar presidency. I'm going to have to be up there. I can't be state bar president and be up there in the fall trying that case." I was urged by other partners to proceed on the state bar. They argued that the lawsuit would probably settle before the election for state bar president came about. Well, things sometimes work out. Another guy that I like very much, [William] Bill Wenke from Los Angeles, or south of Los Angeles, decided he wanted to be state bar president, too. We ran, and we got locked up for a month, and we couldn't move it.
- Hicke: What do you mean by "locked up"? You were tied?
- Raven: Well, we were tied, we couldn't get—I think I had one more, but I think you had to have two more, or something like that. And he kept saying, "Bob, you know, we could split it." I said, "That's all right, let's split it." He said, "But, I want to go first." I said, "Hey, if you want to go first, you go first." Well, I was frightened to death that he wouldn't go first, because of that case.
- Hicke: You were busy.

Raven: As it turned out, when I went up and tried that case—it was about a four-month trial, four- or five-month trial—I came back just in time. I would come down for the meetings, something like that. (He never knew about the lawsuit for years.) So I said I'd do the second half, the second part of the one term.

Hicke: Six months, wasn't it?

Raven: Yes, six months.

**President, Bar Association of San Francisco, 1971**

Hicke: Well, let's back up a little bit now. Why were you interested in this?

Raven: Well, we ought to start I guess with the city bar. I was active in the city bar, and I was on committees and so forth. But I was awfully busy, and it was kind of automatic every year, the city bar, it was kind of an in-circle, and they didn't do that much anyhow. The San Francisco bar didn't do that much; now it's one of the great bars in the country.

Hicke: Thanks, at least partly, to you.

Raven: Well, no question about it. So there were the Nominating Committee men and women. And on that committee was John Finger. Do you know John? You know who John was. John died a few years ago, but John Finger was the head of the committee, a wonderful guy.

Hicke: Which committee is this now?

Raven: This was a committee to select the nominee for the president of the city bar. And they weren't used to having any contest. I think this was maybe the first contest. The committee was [James] Brosnahan, Joanne Garvey, three or four others, and John Finger was the chair. I don't know if anyone even talked to me about it before they did it. I guess they probably did. I think when someone said, "If we should happen to nominate you, would you take it?" Well, when they came out of there, they had that thing really sewed up. Ted [Theodore] Kolb was working up through the chairs for the president-elect spot; it was a very disappointing thing to him. I've always like Ted Kolb, I still do, but anyhow, the young people in the bar came up—the Barristers Club, you know. They really worked on the campaign. I

remember it was at Christmastime. It was in December. And, we won. Very definitely. And, so I was president of the San Francisco bar.

Hicke: What issues did you campaign on?

Raven: Oh, I don't know: the way we were going to make the bar active in a lot of things. People like Garvey and Jim Brosnahan had as much to do with the program and the way we were going and all of that. You see, in that association, you really become president-elect, so I became president-elect. There was a good lawyer, Charles P. Scully, who was a lobbyist up in Sacramento, very smart and very able. He wasn't running against me—he had already been president-elect the year before. He became the president. He did a lot of things which we were going to do, which was fine with me.

Hicke: I believe you had to write an article every month?

Raven: Yes, they are in a book up in our library, I think.

Hicke: Do you recall what goals you had for your six months?

Raven: Well, we were going to become much more active. You know, I haven't looked at it recently.

Hicke: One thing I know you did do—you were interested in the underprivileged.

Raven: Yes. You know people like Brosnahan and Joanne Garvey—they were younger than I was. They had big plans. The Barristers Club became very active. They got very active on what they wanted to do.

Hicke: Did you bring them in?

Raven: Oh yes. They were my great campaigners. They were out pushing for me in a big way. I don't think Joanne was a Barrister at that time. I know she wasn't. She and Brosnahan weren't, because they were on our nominating committee.

Hicke: What kinds of things did you do to become more active?

Raven: We took a position on more issues.

Hicke: I have a list of things that you did with the state bar, but I don't have anything for the local bar. Would you talk to the newspapers more?

Raven: We did. We had more things going. In fact, as I mentioned a minute ago, the guy that was going ahead of me, Charlie Scully, who had been elected ahead of me for the year that I was waiting as president-elect, saw the handwriting on the wall, and he really took off. He spent a lot of his time lobbying up in Sacramento. Of course, we had the bar momentum going, too. Rich Morris came in about that time. I don't know if he came in with me. Rich Morris was later chief executive of the state bar. But he came in the year that I was president-elect. I was all for it. And Charles Clifford was following me as president-elect while I was president.

Hicke: As an executive director?

Raven: Yes. Exactly. Rich Morris. He's still around. He's a wonderful guy.

Hicke: So you actually recruited him?

Raven: I had a lot to do with it. He's around town. You might enjoy talking with him.

Hicke: Yes. So actually, he probably did a lot.

Raven: Yes.

### More on State Bar of California

Hicke: Let's go on, then, to when you became a delegate from the local bar to the state bar. What does that involve?

Raven: The state bar has an annual meeting every year where they have votes on propositions and issues, and it's a pretty lively thing. It always has been. We were very much involved in that. One of the big things we accomplished was to create a task force on employment of women in the law.

Hicke: Why don't you take a look at this list of state bar committees and tell me if there are any that are particularly worth talking about?

Raven: I was the chair of the Executive Committee at the Conference of Delegates in 1976 and 1977.

Hicke: How did you become interested in the presidency, and who persuaded you to do that?

- Raven: I was on the board of governors of the state bar before that, Wenke was.
- Hicke: Is that a step up toward the presidency?
- Raven: The president comes usually from the board of governors.
- Hicke: Okay. So you knew you were headed in that direction.
- Raven: As I told you, Wenke and I were tied, so we told them we'd split it: Bill will go first, and I'll go after that.
- Hicke: From what I can see, you did quite a bit in your six months. Here are some of the things that I've read about: you established a program to channel \$50 million to Legal Services Corporation.
- Raven: Yes, I was involved with that with Jack Londen from this firm.
- Hicke: Where did the \$50 million come from?
- Raven: That's a good question. As I recall, it came from IOLTA [Interest on Lawyer's Trust Accounts]. Robert Abernathy, Client Trust Fund.
- Hicke: Another thing was that you worked a lot for the Legal Services Corporation. In fact, there was a march on Washington.
- Raven: Yes.
- Hicke: What was this march about, or for? I mean, it was for the Legal Services Corporation, but what was the purpose?
- Raven: We all went back to Washington, a bunch of us from Los Angeles, from here, including Abby Abinanti. Do you know Abby? She's an Indian. Leonard Janofsky, who was either president-elect or president of the ABA [American Bar Association], took this delegation—there were a number of us on it—and we went back there. The ABA was bringing in delegations from all over to march on Washington. For two days, I think it was. You remember Abby Abinanti, who's now a commissioner on the Superior Court.

There was a man in the delegation, I don't remember his name, but he was an Indian, and the first day we were the team—they were my team. We went around, and we talked to Senators and talked to Congressmen, and so

forth. And they were going to Austin. It was very well organized, and we were able to get Congress to go along.

Hicke: Who organized it? This ABA committee?

Raven: Leonard Janofsky was our leader. Joanne Garvey was very much involved as Joanne usually is in those things. There was a delegation of about ten or twelve of us, mostly from Los Angeles and San Francisco. I'm trying to think who was president. It was either Sheppard Tate from Memphis or Leonard Janofsky. Reece Smith, who followed Janofsky as president, was also involved. About every state bar was represented. Not all of the city bars were represented. This was truly a march on Washington. I can still remember it. We would wonder where the next place was, how we were going to get there, and so on.

Hicke: As I recall from reading, the problem was that they wanted to stop funding the Legal Services Corporation, is that right?

Raven: They always have. I mean there's a group, a big group that always has.

Hicke: That was the same thing going on then?

Raven: Yes. I was involved in Legal Services, in the [ABA] SCLAID [Standing Committee on Legal Aid and Indigent Defendants]. That's the one I had a lot to do with. I chaired that. That's a very prestigious committee. Later on, Joanne Garvey chaired it.

Hicke: You chaired that from 1981 to 1983?

Raven: Yes. I was on it before, but I wasn't the chair.

Hicke: Going back to the state bar presidency, you established a committee on ethics and minorities?

Raven: Yes.

Hicke: Can you tell me anything about that?

Raven: I should get out the president's editorial pages, "President's Message," *California State Bar Journal*. I should get out Wenke's president's pages. We've got them up in the library, because I looked them up one time. It has my monthly letter and that's all up there. We should get that.

Hicke: Okay. At some point, maybe we could just get those, and we'll just put them in or excerpt them, or something and just put them in the oral history log.

**President, ABA, 1988**

Raven: The place where we are probably strongest of all three—and that is city bar, state bar, and American Bar Association—is the American Bar because of Helen King's good work. She's got it all down there.

Hicke: Okay. So let's just go on to that. I listed some of the meetings that you went to, starting in 1986 when you went to the regional meeting in Colorado Springs. But I don't think we need to go through all these. I think what I would like to know is why you were interested in the presidency.

Raven: Well, I think you can tell by the fact that I was so involved in the city bar and the state bar that I thought this was something that lawyers ought to be involved in. I think it was not only good for the country, but it was good for the profession, too. There was always something close to home, and that makes it important, too. I think that that is why I was involved. I was very taken by the law. I didn't know I would be, until I went to law school. But I found I enjoyed it, and when I got into bar activities and into the ABA, I thought I was doing some good in all of the ABA activities I was concerned with, and so why not run the thing? That was part of it.

Hicke: Am I right that there hadn't been a president from California before?

Raven: There was one from Oakland. But there have only been three—Leonard S. Janofsky, you see, was a little way ahead of me—Leonard Janofsky and two other people from L.A. There have only been five ABA presidents from California, and I was the only one from San Francisco. One president was from Oakland, and three from Los Angeles.<sup>10</sup>

[End Tape 7 Side A]

[Begin Tape 7, Side B]

Hicke: How does that work? Do you indicate your interest or does somebody come around and ask you? Or do you automatically move on up?

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<sup>10</sup> Gurney E. Newlin, Los Angeles (1928-1929); Charles A. Beardsley, Oakland (1939-1940); Lloyd Wright, Los Angeles (1954-1955); Leonard S. Janofsky, Los Angeles (1979-1980).

Raven: Your own state bar, which is represented in the House of Delegates of the ABA, has a lot to do with it. Joanne Garvey had a lot to do with it, and other people like that. My partner, Jack Londen, had a lot to do with it, because he was my campaign manager and he was very good at it.

**ABA Standing Committee on the Federal Judiciary**

Raven: If you will look at the dates, you'll see I had done a lot in the ABA before I ran for president. I was on the Standing Committee on the Federal Judiciary. I think I went on in 1975. [John] Sutro was chair.

Hicke: And you were chair from '78 to '80.

Raven: Yes. That was a critical time. That was big-time because so many judges—something like 150—went on the bench.

Hicke: Appointed by Jimmy Carter?

Raven: Exactly. Yes. And I must say the Republicans were pretty good at that time. I think they have learned. They do that easily now. We had the Omnibus Judgeship Bill. There was a special bill; that's why Carter made all those appointments. They were way behind on them, and there was a great demand for federal judges, both in the district courts and in the courts of appeals, so that's where we did our work. It was a big job. It was hard work.

Hicke: Were there any major problems? There must have been.

Raven: Yes. We would run into problems. For example, I'll just tell you. I don't know if I would want it in print, but we got quite a few women for the first time. Especially on that Omnibus Judgeship bill. The first one that came up was down in Texas, as I recall. I think she is now or has been the chief judge of that circuit. Well, anyhow, I sent one of my members, who was from Oklahoma—it was his assignment in a way, so he went. He came back, and he gave me a very bad reading. I said that I didn't want to offend him, but I wanted to send Jack Sutro down to see. Sutro went. Sutro came back and said that the woman was qualified. He said that she did everything. She has a male partner there who's a tremendous trial lawyer and tries the cases, but she puts them together for him. She takes some of the witnesses. She knows more than he does. So we put her through. We put a number of women through. And we put Blacks through, too. I spent a

weekend of my own down in Alabama. One guy was very bad, and we kept him off. The other guy was worried, but we finally put him through. He's the guy who gets in the press a lot recently. He's the one who sort of squealed on the federal trial judge in San Jose.

The ABA Federal Judiciary Committee came into being in the following manner: Bernie Segal of Philadelphia went to Eisenhower when Eisenhower was president. Bernie's a very persuasive person. He spent about an hour and a half with the president. He convinced him that there should be such a committee, that he should have the ABA create this committee that would screen these people as they came in. When the senators or members of Congress would recommend people, the president would have a screening committee, and that's what we became. Every president will send the appointments through our committee.

Hicke: How many people on the committee?

Raven: The Committee Chair and twelve from the eleven circuits (including two from the Ninth Circuit, and one each in the D.C. Circuit and the Federal Circuit). Well, it changed over time. For example, I think when I was chair, we put a second person in the Ninth Circuit. When I was just a member of the committee in 1975, I did the Ninth Circuit.

Hicke: So there was one from each circuit?

Raven: Yes, except two from the Ninth Circuit now. It was a lot of work, because this Omnibus Judgeship Bill was putting everyone through. So they got that changed. Sutro and other former members of the committee would come back and help the committee. I did some investigations for the committee after I finished my tenure as chair of the committee, when I was down in the L.A. office, which had to be in '93. I did a few up in Fresno. That was kind of fun. To do a thorough job, it's a lot of work. It's a wonderful committee. They do incredibly good work. I want to show you something here.

*[tape interruption]*

Hicke: You are just showing me a picture of the meeting of the committee with President Jimmy Carter.

- Raven: Yes. Those last two years of President Carter's Administration were when the Omnibus Judgeship bill was passed, when so many judges came onto the federal system. The closest relationship we had with Carter's Administration was with the attorney general. Carter's friend from Georgia was the attorney general. Carter came in and talked to us about the need for the committee to continue its great work. He knew all about it.
- Hicke: And you said there was a woman on it?
- Raven: Brooksley Born. Her father and mother lived in San Francisco, and Brooksley spent her school years in the Bay Area. She was the first woman we got on the committee.
- Hicke: How many meetings do you think you had to have? One a month?
- Raven: Well, much of the work was done by telephone calls and mail. As I said, I got one of these headsets with a speaker when they were first coming out, and I had a long cord on it. My secretary spent most of her time on it, too. A report would come in to me, and then it would go out to all the members, and then we would have conference calls a lot. Some was done by mail, too. There was so much work that at times we had meetings. At the time I started, Warren Christopher was the chair in 1975, and we actually went back—I remember Christopher took the whole bunch of us, and we went back to Washington, and we worked out of ABA headquarters. There were many candidates to examine in that period.
- Hicke: Would you say a good many of them were judged qualified or outstanding?
- Raven: I think there were three ratings: Qualified, well qualified, and exceptionally well qualified, which is fairly rare. One of the members of the committee would be assigned, and it would be in his area usually.
- Hicke: Geographically.
- Raven: Like in 1975, I was the guy who did it in California. But we had so many at times that we would get help. For example, Sutro helped sometimes, because we just couldn't handle them all. Bernie Segal would come to all the meetings.
- Hicke: Well, I think that's a good idea to call on experienced people.

Raven: We had a meeting, of course, every year just at the annual meeting, but we had other meetings too. A lot of telephone conference calls.

**Responsibilities as President, ABA**

Hicke: Let's go on to the presidency of the ABA. That was 1987, but obviously you started campaigning earlier. You were elected in August of '87 and so maybe in February at the midyear meeting in New Orleans?

Raven: In New Orleans. I think that was where I was elected, as a matter of fact, as president-elect.

Hicke: Did you campaign then? Tell me about the campaigning.

Raven: There was a very nice guy from Oregon who was in the race, and there was someone from Washington, D.C., and then there was someone from Arizona.

Hicke: You were kind of in the middle, as I have read. Is that right?

Raven: Probably. Although I had a pretty good background in the ABA by that time, which you'll find if you go through the outline from the American Bar Association. I think you'll find a lot of activity by me.

Hicke: Oh absolutely.

Raven: And some very important committees. For example, the Standing Committee on Legal Aid and Indigent Defendants. Although I wasn't chair until 1981, I was on the committee before that time.

Hicke: Getting back to the campaign for the ABA presidency. Did you have to talk to people or make speeches?

Raven: Oh sure. You make speeches and travel around to the different states.

Hicke: Were there any issues that you were particularly interested in for the ABA?

Raven: I'm sure there were. I was always great on indigent defendants and that type of thing, and the poor. Today it would be called a Democratic thrust, but I've always been a Democrat. Of course, I think the others running were pretty much, too, although I think the wonderful guy from Portland may have been a Republican. Not that that was a big factor. I think the fact that

I came from a firm that was very much behind me too was important. I had a wonderful campaign manager, Jack Londen, who was much younger than I am. He's a partner here now. But he was very, very good. Kerry Efigenio worked on it. We had a good team. My partners were willing to put the effort into it. So I owe a lot to all my partners here at Morrison & Foerster, who would put this effort in and know that I would be out of commission for a couple of years. But they wanted to do it. If I wanted to do it, they wanted to do it. They all helped. Jack organized meetings, sent out letters, etc. It was really a campaign for the ABA presidency. People really got into it. Some people come back and run again.

Hicke: Okay, so you won, and you were installed; was there some kind of ceremony?

Raven: Well, you go in as president-elect. Bob MacCrate from a big firm in New York was president when I was president-elect. He was a wonderful person to work with, and Connie MacCrate and Kay Raven were just great, even though we're from different sides of the planet, so to speak, but we liked the MacCrates very much, and we got along with them, and we traveled together. We all went to Russia together and things like that.

Hicke: Was this while you were president, you went to Russia?

Raven: No, I was president-elect. It was in the fall after I became president-elect, and Bob MacCrate led the group.

Hicke: What was that about?

Raven: Well, you know they talked to the leading lawyers, the leading guy that here would be the attorney general of the United States, kind of their attorney general. I remember that when I was president-elect, we had a very critical thing in the meeting one day. But before the meeting, they were going to take Bob MacCrate and me down where the young German [Mathias Rust] was being sentenced that afternoon, the young German who flew his little plane into Moscow, Red Square, remember?

Hicke: Oh, yes, I remember.

Raven: I was lucky. I would have gone anyhow, but Bob was unlucky, because they couldn't break away, they had this big thing going, they had lawyers from all over Russia. So he had to stay, but they took me down there. Two

guards took me down there. They took me in, they marched me right up. I stood right by the young guy while they sentenced him. He was a kid, too. It was kind of an experience, wasn't it?

Bob MacCrate and his wife, Connie, and my wife, Leslie Kay, and I went up to St. Petersburg. Oh, we spent a whole day in the Hermitage. We had a guide, and she told us about how they tried to bring food in over the top of the ice in the wintertime.

Hicke: It was isolated.

Raven: Yes, it was quite an experience to go there. They were still suffering, you know, her grandmother had died, starved to death, in fact, yes.

Hicke: Were you invited to go over there?

*[The following story was told to Eileen O'Hara:*

Bob MacCrate, who was President of the ABA, and his wife, Connie, invited Kay and me to go on an ABA-sponsored trip to Russia. Marina Jacks from the ABA office in Chicago organized the whole thing. Our Intourist guide was named Irene. She told us stories about the past when food was so scarce that people were eating anything they could get their hands on. Her grandmother ate a leather belt and died because of the chemicals used to tan the leather.

We drove in through the twilight past stands of birch trees and when we came to the outskirts of Moscow we saw a huge modern sculpture. It looked like huge square, steel tent poles for a teepee, crossed at the top. Our guide said, "That is the exact spot where we stopped the Germans." The idea of the battle and the victory gave me the chills.

After we settled in, Kay and I, and Marna Tucker and her husband, decided to walk to Red Square. Part of the way there took us through a very wide pedestrian tunnel. We were walking along when we were suddenly confronted by a armed Russian policeman. It made us pretty nervous because we didn't have any ID with us. We had had to surrender our passports at the hotel. It turns out that he only stopped us because Marna's husband was smoking a cigarette and smoking was not allowed in the tunnel, but we were pretty tense for a few minutes.

We flew from Moscow to Leningrad [now St. Petersburg] and we toured the Hermitage. We had red-carpet treatment and we got to go into the Gold Room where the general public is not allowed. We were accompanied by our tour guide, Irene, other members of the ABA contingent, and a group of legal professionals who were the Russian equivalent of the ABA. In the museum we saw Egyptian earrings that were the size of my little fingernail and depicted four tiny horses that were exquisitely detailed. They were thousands of years old and I was astonished to think that the craftsman made them without aid of magnifying tools. They were so real and so beautiful!

The Russian/ABA delegation took us out to lunch at the first privately-owned restaurant in the Soviet Union. It was a beautiful place inside and the food was terrific. We were sitting in a small group, at one end of the room, kind of up on a raised platform of some sort. The ceiling was draped with aqua colored silk fabric and in the corner there was a man playing old British and American WWII songs on a piano.

The Russian legal delegate in charge of hosting us in St. Petersburg made everyone in the restaurant be quiet and then announced that we were guests from the United States and introduced us to the crowd. I stood up and asked if I could take the floor. He said, "Of course," and handed me the microphone. Without any preparation or notes or anything, I delivered what I think is the best speech of my life. Even Kay says it was my best speech. I talked about how much I admired the Russian people and how they had come through hard times and were trying to make better lives for themselves. I don't think I spoke very long, maybe only ten sentences, or so, and perhaps the few drinks I had had with lunch helped, but they all stood up and clapped and cheered when I was finished.]

Hicke: And did they want your advice or did they just want to meet with you?

Raven: Well, they wanted ideas on things. We wanted their views on things. They brought in lawyers from all over Russia in there. We had big, big meetings, and their equivalent of the attorney general was there.

Hicke: What kinds of things did you discuss—alternative dispute resolution, things like that?

Raven: Not much of that, but there were a lot of questions asked, too. They wanted to know more about our system, we wanted to know more about their

system, how are your judges, how do they become judges, and all of that and what it means and so on.

Hicke: Are they trained to be judges, or do they become lawyers first and then judges like ours?

Raven: Well, I think they are like in so many of those continental countries; they're like Germany, where people are really trained to be a judge rather than a lawyer. I think it was more that way there, too, but I can't remember that for sure. It occurs to me now that it's more like Germany.

Hicke: Were there judges involved in this, or was it mostly attorneys?

Raven: Oh no, there were a lot of judges, but a lot of attorneys, too, delegations were coming from all these different places. It was a big group, I would say 200 or 300 in this auditorium we used.

Hicke: What other kinds of things did you do as president of the ABA? The first thing you had to do was select your committee chairs, I suppose.

Raven: Yes, I had some power in that, but a lot of that was done. You have a *Message From the President* every month, you have to write that, but president-elect in a way is more fun, because then you're on the circuit. You're visiting all the state bars all over the country. I spent most of my time when I was president-elect visiting all of these state bars, big city bars, I spoke to a lot of those much more when I was president-elect than when I was president. But that was good. We got to meet a lot of people in the bar that you didn't know already, although I knew a lot of them because I had been in the House of Delegates for quite a while.

Another thing that I did right after I was president, Talbot (Sandy) D'Alemberte was president of the ABA four years after me. When he was president, he said, "Bob, we need a good Chair of the Dispute Resolution Committee," a standing committee they'd had for years. So, after Sandy appointed me, I turned it into a section. People told me I'd never get it through the House. But we went out, and a lot of people signed petitions and so forth. We not only got it through the House as a section, it was the first committee to be turned into a section in seventeen years of the ABA. We turned it into a section, and then I was the chair of the section, '93-'94. In the first year we had 6,000 members. So we justified ourselves to the

House. I promised them we'd get a lot of members; there was tremendous interest all over the country, and at the end of the year we had 6,000 people.

[End Tape 7, Side B]

[Begin Tape 8, Side A]

Hicke: After you were elected president, you went to the Canadian National Bar Association meeting in Toronto. Then you went to Australia.

Raven: Yes, I remember going down to the new capital of Australia—Canberra. It was quite new at that time. In fact, it was very new. It was a beautiful city. The architect was from the United States, I think.

Hicke: And then I have in October you went to England and Wales, the annual bar conference of England and Wales. These are all things you have to do as president?

Raven: Yes.

Hicke: And what do you do at these conferences?

Raven: You always give a speech. They ask you questions. I remember, because Kay and I drove up to London and bunked at the home of one of my partners in our London office.

#### Opening the Morrison & Foerster Jeddah Office

Raven: We probably haven't run over the time when we opened the office in Jeddah, have we?

Hicke: No.

Raven: I was conducting a partnership meeting, the governing body, and my secretary came in, and she said, "There's someone on the phone from Jeddah, Saudi Arabia." So I said, "I guess I'd better go talk to this guy." They had been allied with a London firm that had broken up, but there were two guys who wanted to stay there in Jeddah, two English lawyers. They wondered if we were interested.

Hicke: They wanted to associate themselves with Morrison & Foerster?

Raven: Yes. I put it to the partners. Of course, we had a big problem right away, because women can't go there [to practice law]. I said, "We've got a hell of a problem if we do that. We're going to have to talk and see." First, we've got the problem of whether we want to do it. I suppose you could argue that can't last forever, but we had a big meeting. We talked to people like Kathy Fisher and others, and they said, "Well, go ahead, do it." I don't know if Carl Leonard was managing partner at that time—yes, he was getting ready to take over. I was chair for about eight years. We went over and had this office in Jeddah for about three or four years. There was all kinds of work. There was an incredible amount of work. More, strangely enough, was litigation, too. Although some of it was business and so on. Finally, we just decided to get out of it. Everyone, I think, was happy.

Hicke: Why?

Raven: There was a lot going on, but we just didn't like the idea that women couldn't go there.

Hicke: A structured society.

Raven: Yes. Very structured, but we had a lot of guys that spent a couple years over there.

Hicke: Obviously, you couldn't send any Jewish partners.

Raven: No, that was another thing you had to worry about. People like Mel Goldman and Marshall Small and women attorneys. They said, "You fellows go ahead," but we didn't feel right about that. So you had two groups in the firm that you were not treating right. It seems to me as a result of that—we had opened the London office even before then—we did a lot more with the London office. We opened up in Brussels, always had a great office in Brussels. I spent some time in Jeddah.

### More on the ABA

Hicke: The ABA, we're back there, and after you went to England and Wales, there's a list of all these board of governors meetings you went to.

Raven: Every quarter, at least every quarter.

Hicke: What do they do at these meetings?

- Raven: That's where you have a lot of committees of the board of governors, and they're all working on things, and you present that. It's a pretty active group, and it's well run.
- Hicke: That's where the work gets done primarily?
- Raven: A lot of it was done in the house, too, a lot of it done over the years, down there.
- Hicke: I know you made a lot of speeches, but did you have to deal with the media like press releases, interviews, and that kind of thing?
- Raven: Yes, a lot of that. You had to be on your guard, and you had to be very careful, but I had a good speech writer, Brooksley Born. She was good at it. Then I had some people working with me that were very good at that type of thing. We were very careful of it. I got interviewed a lot. Every month you had to write the *Message From the President*—twelve of these during the year. You get a lot of comments on that, good and bad. But it had to do somewhat too with what you're trying to do as a president of the organization at that time. [*indicates papers*] This happened to be the first one. At home, I've got sets of them.
- Hicke: When you had to be interviewed, were you prepared for the kinds of questions you were asked?
- Raven: I had been pretty steeped in the ABA. And I have always been well-read and always grab everything I can. I'd been in the House for two years, right out of the state bar, and then I didn't go for a while. But then I went back, and I was chair of the delegation by the time all of this was happening. Joanne Garvey came after me, and she just had to step down. She's going on the board.
- Hicke: Did you have to testify at hearings?
- Raven: We had to deal with the House and Senate a lot. We would oppose bills. I testified a lot.

[End Tape 8, Side A]

## VII. SOME EARLY CASES

Interview 5: September 14, 1998

[Begin Tape 9, Side A]

### Embassy Theatre Case<sup>11</sup>

- Hicke: You alluded to this case before when you said that you moved into the office with all the files on the Embassy Theatre case. And did Mr. Clark then start you working on that?
- Raven: That's right. I came into the office, and I picked that office next to John [Austin] for a couple of reasons. I liked John. It turned out to be right next to him on the 8th floor. You know, there was an 11th floor where all of the older people were, and the 8th floor where the working people were, and there was the 5th floor where the library was. So, it was pretty good.
- But, yes, Mr. Clark said, "Bob, I'm going to start you on this case. The files are all in your office." *[laughter]*
- Hicke: So, what did you do? Start reading through the files?
- Raven: I started reading. It was a big antitrust case for the Embassy Theatre on Market Street. Dan McLean and Lee Dibble were the owners and operated it. And Mr. E.B. De Golia, who owned the theaters, was a very wealthy man. He owned the Sir Francis Drake Hotel, up on the corner of Powell and Sutter. He lived up on the top floor.
- Hicke: Was he listed there in the plaintiffs?
- Raven: No. They separated that case out. But in any event, he was involved. That case was filed after we settled the big case, finally. After ten years, we finally settled his too. Mr. De Golia. Very famous old guy.
- Hicke: As I recall, nothing had been done on it for a long time.
- Raven: Not a thing. There had been extensions of time for a year, at least, I think. There were all these extensions of time. It was a file like that *[measuring with his hand]*.

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<sup>11</sup> *McLean, et al. (Embassy Theatre Co.) v. Paramount Pictures, et al.*

Hicke: Why were these not acted on?

Raven: Because Mr. Clark was really a defense lawyer on big cases. This was a unique thing—that he'd tried to think of himself being a plaintiff lawyer on the plaintiff's side in an antitrust case was very unusual. And I think that (don't quote me on this) but I think that bothered him a little bit. So he got me started onto it. And he had Boice Gross, do you know Boice Gross? Boice married a very very wealthy woman. They ended up in a beautiful mansion on a mountain in New England somewhere.

Hicke: I know the name.

Raven: Well, Boice was a very brilliant guy, but he gave the case to Ricky Musto. Now Boice was out of the office an awful lot, saying that he had a "dentist appointment." So, one day I talked to Jack McCrystal about it. I said, "Gee, how come Boice is always at the dentist?" He said, "I keep a record of it. He's had over 300 teeth pulled." *[laughter]* At any rate, Mr. Clark said, "Bob, you get into this. You tell us what has been done." I kept at him, saying, "We've got to get this case going. We've got to get them answered." We finally got an answer, and then I said, "We've got to get depositions taken and interrogatories taken." He said, "Well, we'll do that, but you just keep pressing me. I've got a lot of things going."

And finally, we noticed a deposition—and this must have been a year later, at least, might have been a couple of years later, might have been more than that—I noticed a deposition of W.P. Wobber and his brother had a big store in town here—legal papers, typewriters, and things like that. He was a very wealthy man, and he was noted for being the general sales manager of 20th Century Fox. And, of course, that meant he was a big man, because 20th Century Fox—and that was what this case was all about—had taken over the Paramount Theatres, had taken over from them, and it was all a big pool. One big conspiracy. They'd taken over the Paramount Theatre and the State Theatre from Paramount. They'd taken over other theaters from Metro-Goldwyn-Mayer. They owned all the theaters on Market Street, other than the Embassy Theatre.

Hicke: Now, I just want to clear this up. We're talking about the actual theaters, now, and not the movie production.

Raven: We're talking about the actual theaters. Dibble and McLean had leased the Embassy Theatre from De Golia, and they did it some time before 1940, I

think. Dan McLean had been over in the big theater on the lake and still goes over there—Grand, I think, over in Oakland. Big, beautiful theater. He'd been the manager there for Fox West Coast, because Fox West Coast was running all these theaters. It didn't matter who owned them. He came over, and Dibble spent some of his money, and they acquired this big lease from De Golia.

The only thing the companies would give them was third run downtown, and with the clearance they had—do you know what a clearance is? For example, a second run would play maybe—in those days—60 days behind first run closing. And then third run would play about 150 days behind second run closing. You know, the picture was a year old before it got there.

So they got into another little business along with it. It was quite famous, and it brought a lot of customers. It was just like a bingo game with drawings, you know. They had that for many years, and they had big crowds all the time. They paid tremendous prices for third run downtown. Much more than the second run theaters that were under Fox were paying.

Hicke: They had to pay?

Raven: They had to pay in order to get the pictures because the pictures from Fox, like it didn't matter if it was a Warner picture or a Loews picture, or what it was. The other one was a little more independent, with my old friend Blumenfeld, who had a big chain of theaters. But even he had to buckle in to them. In fact, I brought a case for him one time against them too. But anyway, that was the background we had. There had been a case against these big film distributors in the early forties, about 1945, or in that area—by the government. They'd hit them hard.

Hicke: Antitrust?

Raven: Antitrust violations. So, we had a decree to use. It wasn't won in a settled case. Well, they theoretically settled at the end, but it was after a huge trial, many years of trial. So that's the background on it. Of course, they wanted to get at least second run, but they wanted to get first run. They grossed as much as some of the first run theaters.

Hicke: So this was an antitrust action against . . .

Raven: It was an antitrust action. We had a government decree that we could put in evidence, which we did. And well, we had to get going. So I kept at Mr. Clark. I said, "Mr. Clark, we've got to take some depositions." I think it was a couple of years—it was after I had been here a while. I had just been admitted to the bar. I was here a year. I came in the spring. I went away late summer—did the [Bernard] Witkin thing. Of course I passed, but I didn't become a practicing lawyer until I guess it was January or maybe February. Maybe it was before. But I couldn't practice that first year, not until a year and a half or a year and a quarter later.

But I kept at Mr. Clark, and Mr. Clark said, "Which one should we take first?" I said, "We should take W.P. Wobber. He's in charge of the whole thing. That's what they all say." He said, "You know, he's a big man in the theaters." I said, "I know that." But then he went along with it. So, he said, "You get it ready for me, and we'll take his deposition." So I worked like a slave, and I got all the questions—I really put down pretty much the exact questions for him. It's a good thing I did, as it turned out. I thought it might incense him, having some young lawyer doing it like that—I didn't know.

So the day comes for the deposition. The day comes when we go over to Arthur Dunne's firm. Well, Wobber's there first, the witness. Arthur Dunne was there with three of his fine young people, including Dunne and Colbert, who later went out and clerked for the Supreme Court for about twenty years. Clerked for the chief, I think. He was a wonderful lawyer. It was good for him to go out and take that job. That's what he was good at.

So he had four of them. He had Mack Fleming from that big firm down in L.A. Then, in comes Bennett with Charlie Prael. I think Charlie was at that first one. He worked a lot on that case. And then two young lawyers, Dell [Maurice Delano] Fuller and Bill Edlund, very good young lawyers. They're both well known.

And so we went over to this deposition. And Mr. Clark and Mr. Bennett were talking, and I finally said, "Mr. Clark, the reporter is here. We should get going." Mr. Clark said, "Yes, yes." "Bob," he said, "You can take this deposition. I'm going to run along." I had never taken a deposition! I'm not sure I'd even been in a deposition. I guess I'd been in a couple with Dick [Archer]. Well, so, I took W.P. Wobber's deposition for four days. It turned out to be a pretty good deposition.

So we sat there for four days, and I took his deposition. They were trying to block me, and I would just keep coming back, and we kept at it. It was a pretty good deposition. Everyone on our side was very happy with it when we were through.

Hicke: And you had done all the preparation for it.

Raven: I did everything, yes. So I was ready for it. It's a good thing I did it like I did it. Because I did it just about in a damn question-&-answer thing for Mr. Clark, because I knew he didn't know a lot about the case. I knew a lot about the case. And when you put that together, why, gee, I could have taken his deposition for forty days if I had had to! We did, some of those guys, just about.

We started in on many depositions, oh, and motions, and we fought for years. They made a fortune out of it—the other side. We did pretty good too. And when we were about to go to trial, which was about five years later, the morning we were to go to trial, we were all in St. Mary's Cathedral for the funeral of Ed Murphy, the judge. Ed Murphy, what a guy. So we had to start over, so to speak. We got Judge Lloyd Burke. And finally they said they would allow us to go ahead. But that took about two years before we tried it. This was tried with Judge Burke.

*[Conversation regarding the date of the trial.]*

Hicke: I have 1958-60.

Raven: We had tried the case before Judge Murphy, and we were about through with it, and then he died. They said, "You've got to get yourself a new judge and start again." Lloyd Burke knew how to handle himself. Lloyd was not a hard worker, but he was awfully smart. They said he never took a book home, he never took a book off his podium, as far as I could see. But he was very, very smart. He was an uncanny guy. He knew what people were doing. We really retried it before him—with the record. He had the record before him—the record of the trial—which, by that time was about four years old or more. But we, Howard Downs and I, thought we were being terrible on our opening statement to him. I think it took us something like, it seems to me, fourteen days. Bennett and Arthur Dunne and Mack Fleming got up there, and they must have taken another 50 or 60 days. And we had another long second trial. The second trial before him was a long

one. You see, Burke liked that, because he knew there was this huge file and he didn't want to read it. He was going to listen to it all.

Hicke: Just out of curiosity, do things go along pretty much the same way if you retry something like that? Or would it take off in another direction somewhere?

Raven: Well, it goes along pretty much the same way.

Hicke: Everybody knows what's going to happen and . . .

Raven: Well, you all learn as you come. You know, people change positions and so forth, and so there are some new things to it.

But Prael didn't tell the whole truth in that story [his oral history].<sup>12</sup> I should go back a little. He opened the Illium Theatre in the pool. You know, it was up the block some way. It's the one up above the RKO, I think it was, or maybe a block over. It was up there quite a ways. It was a small theater.

Hicke: In Oakland?

Raven: No, no. Here [in San Francisco]. And they put second run downtown in it while we were still doing third run, because it was their theater. It was a much smaller theater. So we had things like what that theater was paying for a film. Here's a film, and this is what that theater was paying, which would be written down like this. And we would have a stick. And our stick would often be nearly as high as the Fox Theatre.

Hicke: This was a chart?

Raven: Yes. Well, the Fox Theatre was the best, biggest, and the RKO, the best theaters in town.

Hicke: And the stick measured the profits.

Raven: Bennett just hated those goddamned things. Well, they'd go nearly to the ceiling. It was kind of devilish on our part, you know. First we had some

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<sup>12</sup> Charles F. Prael, *Litigation and the Practice of Labor Law at Pillsbury, Madison & Sutro: 1934-1977*, an oral history conducted in 1985 by Carole Hicke, Regional Oral History, The Bancroft Library, University of California, Berkeley, 1986.

charts that were up above it, but the charts wouldn't go up to the ceiling, so we had these sticks. We'd use those a lot. And it just drove him mad. Edlund told me later, "Every time you talked about those charts, you got Bennett going." In any event, what happened was that Bennett was taking them on, and they were over in the jury box. The jury box was here, and we're down here [*pointing*], and Bennett and his gang was over here, and the judge was up there. And you walk along next to that jury box out there today, and it's got these rails. Well, Prael let on that he was kind of confused, because he's a very honest guy. I think he was kind of confused. He seemed to think that Bennett fell over into these sticks. That wasn't true. Bennett was going to get in there. I said, "Mr. Bennett, you'd better come down to the end and walk around." He said, "No, no, no, no." I said that because I wouldn't put my leg over that big thing. He said, "Well, no," because if he did what I suggested, he would have to come down by me and then go in that end by our desk.

So, he got his leg up over there, and of course, he caught it, which I think was the whole intention. And he went thundering into that pile, and those two sticks were breaking and going all over the courtroom. He had said something about those sticks being a spectacle. And, you know, the judge was a pretty decent, a pretty nice guy. That was Ed Murphy. That was during the first trial. That was Ed Murphy. Ed Murphy said, "Mr. Bennett, talk about spectacles! I've never seen a worse example than this. We're taking a noon recess." He walked out of there, walked off the bench. And Bennett was kind of sheepish looking. But he had broken our sticks, or twigs, he called them twigs, I think. Well, Bennett, if you remember—Charlie talked about that—he hated those.

Hicke: And you never reconstructed them, as I recall.

Raven: No, no, we didn't. I think we used a chart for Burke when Burke came aboard. We might have had them in the jury box for Burke, I don't recall. But anyhow, it was one of the many things that happened.

Well, we took many depositions. They took depositions for hours—Dibble and McLean and other people—experts that we had by then. And they had a lot of people. I took every branch manager in town, I think. I went down, and I think I even took Charlie Skouras's deposition. I think I took his deposition.

Hicke: Who was he?

Raven: He was Fox West Coast, down in Hollywood. I think it was the Skouras Brothers who were really running Fox. He and two other brothers [George and Spiro]. But I took a lot of depositions. I went into the old files—cases that people had tried against them. We relied on the government case. Oh, we did a thorough job. I was just a kid—I didn't know how to do it any other way. I know we did that thoroughly. Then Howard Downs came to work for me. And Howard was a really good lawyer. Very articulate. Very good writer.

Hicke: He was an associate?

Raven: He was an associate. Later on he became a partner, and then he left and went over to Nemerovski's firm. But then they threw him out in a short while. He was a good lawyer, but he was terribly—well, I won't say. He then spent years teaching out at Hastings. He made a fortune when he went out on his own. He had plaintiff cases—real good lawyer.

Hicke: By this time you were a partner.

Raven: Oh, hell, yes. I was a partner in four years.

Hicke: 1956, was it?

Raven: Yes, that would have been 1956. I became a partner at the same time Homans had, who had been here quite a while. In fact, I think they felt they had to make him one along with me.

Hicke: Was that a record?

Raven: Oh, yes, four years and three months was a record. There was no question, in those days. Dick might have been about five years or something like that, but that was before my time a little bit.

Hicke: Well, how did this all turn out, now?

Raven: Well, if we'd had Murphy, I think we would have gotten real big money. But we didn't do too badly with Burke. As I say, Burke tried it on the record, which included all of us getting up there and telling him about the record for many, many days. I don't know how long that took. It was a

long time. Bennett and Arthur Dunne were up there—they were both very good. Arthur Dunne was a very good lawyer in the courtroom. He was better than Bennett, by quite a little bit. He was very good. His father, you know, was partner with this firm with Mr. Clark and all those people. But in any event, we finally actually settled it right at the very end. Everyone knew, at that point, they knew what the judge was going to give. The judge cut us back quite a little that he shouldn't have. He cut us back a couple of years on something he shouldn't have done.

Hicke: Were you asking for punitive damages?

Raven: Treble damages. We would have gotten treble damages. And I think Murphy would have given us about two-and-half million. Burke kind of talked about it for a while, but not very seriously. Burke, you know, was really tight on money. He's an old DA [*District Attorney*], he wasn't used to big firms and big money. I think he's a tremendous lawyer and a tremendous guy. I felt so bad when he died. I got to know him real well. In fact, he became my big friend. He and another judge were responsible for picking me—Bill Lindquist and I were two of the youngest people that the chief justice ever picked to send to Judicial Conference [of the United States] every year. I owed it all to Burke and to the other judge. I liked him very much. I had many cases before him after that.

But I haven't told you much about this case, it's difficult. I read the whole thing. It goes through in the usual way in an antitrust case, where you've got a government decree and all of the things. You wouldn't want to read it, I don't think. Well, here's the type of things I talked about. You can see by the index. We talked about the parties, we talked about the theaters generally, about the pooling of theaters.

Hicke: Pooling? Maybe you could explain that.

Ravel: It meant that although Loews owned their theaters, it was being operated by Fox. And although RKO owned those theaters, it was represented by Fox West Coast. They were all in a big pool.

Who ran them? The Skouras Brothers, Charlie, George, and Spiro. And so it was a real conspiracy. So, that's why they sued. That's why the government sued all those film companies. They got onto that because it was all over the country. They divided the whole country up. So the government had a big antitrust case against them. I think that's really why

Mr. Clark filed it. If it had been a regular plaintiff case, Mr. Clark would have never filed it. We had a government decree that we were going to put in evidence, which we did. And that's the thing. Even Burke couldn't quite *pooh-pooh* it. He knew all about it because he had been to the Department of Justice. It involved the allocation of product and how they had been allocated . . .

Hicke: That's this first, second and third run, and so forth.

Raven: Yes. I think third run was 120 days at the Embassy one time, after second run closing. It was incredible. Clearance—what the clearance was over other theaters. Price fixing. All about price fixing, because they did that. Block booking, where you couldn't take one picture, you had to take ten, or something like that—that's block booking. So this will give you a little sense of what the antitrust case was over. Centralized buying.

Hicke: Now that's buying what?

Raven: Pictures. Pictures for theaters. Hell, Fox West Coast did it for just about every theater in California. I think they even did it for Blumenfeld for a while. As I said, we had Blumenfeld in it one time, although I represented Blumenfeld in a case later on against Ray Syufy and Joe Alioto. I've done a lot of antitrust work. And then you had rental discrimination, which we could prove—you know, this little union theater on second run who was charged less and paid less. We had this one chart we showed them about this high [*demonstrating*] on their rental that they paid back to the companies. Our sticks would go way up to the ceiling on the third run downtown, way behind them. You could see why we put those sticks up.

Hicke: Sure.

Raven: You could see why Bennett hated them. [*laughter*] Monopoly. There was a whole monopoly thing, because you see the government went into it. The government found that they had a monopoly.

Hicke: Who was the government case against?

Raven: They were against nearly all of them, although Fox West Coast was a big one. Loews, Fox West Coast, Paramount.

Hicke: So they'd already been chastised for all of this.

Raven: Oh, yes. But that doesn't stop them from being sued.

Hicke: They just continued. . .

Raven: They were being sued all over the country. [Joseph] Alioto fought one and won it also, like I did. I don't think in front of Burke, because he lost the judge at the same time I did, we both were before Judge Murphy. Joe Alioto was going to go before me, and he had Sam Goldwyn's cases. And as it turned out, I went first, finally. And I don't know if he ever tried it, I think he did. But if he didn't, he might as well have settled on the basis of my settlement, or something like that. Oh, we worked together a lot, Joe and I did. Mr. Clark was always suing him, and while they were good friends—

Hicke: They were always on opposite sides?

Raven: I said, "Mr. Clark, you've got to work with him. We're a plaintiff case." And I would go to Joe's office, and Max Keith—remember Max Keith was one of the young guys, but he made a lot of money later on the law, and he's now retired. He was over at Joe's for years. He beat Mose Lasky on the Klor<sup>13</sup> case. Our office was on it too, and we went right along with Lasky. I didn't, Girvan Peck did. And Lasky took it up to the Supreme Court of the United States. Lasky could hardly articulate things. I don't know what the hell he did back there in the Supreme Court. I'm surprised they didn't say, "Just sit down and we'll read your brief," or something. I guess Joe probably argued it. That's probably what happened. Joe probably argued it. Mose was a hard-working lawyer, but he would start out, and he would gosh and that and that. But he did a lot of work for Joe, and he took a lot of depositions. And then Bleecher. Bleecher was a very good—do you know Max Bleecher?

Hicke: Well, I've heard of him.

Raven: He moved to Southern California, but he's one of the best trial lawyers in California, always has been. Joe really missed him.

[End of Tape 9, Side A]

[Begin Tape 9, Side B]

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<sup>13</sup> *Klor's, Inc. v. Broadway-Hale Stores, Inc., et al.*

Hicke: Anybody else that you recall?

Raven: Well, Mack Fleming. His father-in-law was the mayor of Honolulu, or the island, at that time. Mack was with a big firm. He's a good lawyer. He was a young lawyer, except he was too brisk. He was so brisk.

Hicke: Was that a problem?

Raven: It was good to learn that right away. Then [*exaggeratedly slow*]~~—you—~~ couldn't~~—fail—to—~~ understand~~—what—~~ Bennett~~—was—~~ saying, whether it was right or wrong. Fleming was~~—~~ a little like I was in the beginning. Very quick, quick, quick, quick. The reporters had trouble keeping up with him. But he was a damned good lawyer. Then he became a judge. He was a judge for many years, down in lower California. State judge, I think.

Hicke: This is probably a silly question. This was not a jury trial, was it?

Raven: No. That would have been terrible to put me into a jury trial; that would have been even worse. We had Murphy, and we thought we couldn't do better than Murphy. Murphy, I think, would have given us a big one. Murphy didn't like Bennett very much. I think he liked Dunne very much.

Hicke: Can you tell those things when you're in a trial? Or did you know that from other—

Raven: Well, yes, you can get a sense.

Hicke: You were just going through the table of this case here. We got up to Refusals to Deal. That's where we were. What is that—Refusals to Deal?

Raven: Well, they wouldn't sell to the Embassy Theatre. Some of them wouldn't. How would you feel if you went into a store and they said, "We won't sell to you"? And that refusal we said was pursuant to this conspiracy. Then they worked it all out as to who would sell to us and who wouldn't. And then damages.

Conclusions of Law. Conclusions of Law would be really our statement of the law. We prepared this one for the judge. This is ready for his signature. That's what we asked him to sign. But these were not our own conclusions—they were all through this document. Our conclusions on price fixing, on block booking, on clearances, on allocation of product, on

pooling. This was our annotation to the Conclusions of Law. This is where we added some things.

Hicke: OK, so in 1960, then, it settled?

Raven: I guess it was 1960. I was going to get that all out and check that again carefully. I'll read this to you, for example. "Testimony of Al Smitken." He was Warner's, I think. "Testimony of Albert Smitken concerning an attempt by Warner Distributing to sell any of their products from Fox West Coast in San Francisco in 1939 was deliberately amended to the findings. Following a summary, the testimony concerning this matter. Smitken testified at the trial that he solicited first run operators other than Fox West Coast, namely, RKO, Golden Gate, Orpheum, United, of his own volition without . . ." Well, that's what he said. He testified he received it from his superiors. *[pause]* Then in here, he mentioned that he never talked to anyone at the Orpheum Theatre about it. I mean Fox was doing it all. And that's what it comes to. The facts were pretty much indescribable.

Hicke: Once it was settled now, did that clear up the matter? Did they stop doing it?

Raven: Yes. In fact, by that time, it had pretty much changed anyhow, because they were under government decree. We were starting to get better pictures, and we were starting to make a lot of money and doing very well.

Hicke: OK. So that ended it.

Raven: I think they finally took *Lotto* out of the theater, which was one of the big drawing cards.

Hicke: Because they had enough theater business?

Raven: Yes, they had good pictures and so forth.

Hicke: OK. I think we've done that case pretty well.

Raven: Well. I took an awful lot of depositions myself. Some of them would be five days at a time. Some of them would be longer than that. It was a big case. I spent an awful lot of my time on it for years. I was working pretty much by myself for a while, until Downs came along, and then there were a couple of younger people who came along that helped.

Hicke: So this was your first big antitrust case?

Raven: I had never tried *any* case. I hadn't been on a trial. I'd not been out to court when Mr. Clark said, "Would you take those depositions?" By then [*the end of the Embassy Theatre case*] I had tried a lot of cases. I tried a lot of other cases; you couldn't wait for this case all the time, so I tried other ones.

### Reconstruction Finance Corporation

Raven: In fact, I should mention some of these things to you. When the election took place, when I came over that summer, that would be the summer in '52, and Dwight Eisenhower won the presidency, of course, then Republicans started getting taken care of. The Reconstruction Finance Corporation called Mr. Clark—I'm sure there was a lot more politics to it than that. You know, Mr. Clark had represented Mr. Hoover, when Mr. Hoover was president.

So, the Reconstruction Finance Corporation called him and said they'd like to have him, his firm, do the Reconstruction Finance work out in the 9th Circuit, which was great. I don't think it was all the 9th Circuit. I think it was California, Nevada, and so forth. And, think Mr. Clark was going to get, something like \$14 an hour—I think it was \$12/hr—\$12.50, I think. And I was going to get \$8.50/hr, which was a little unreal; that was a lot of money for me. The firm didn't pay me that much then.

I went down to Monterey, and I sold at least ten of the canneries for Reconstruction Finance Corporation. It was a new matter. I had to get used to all that, how you foreclosed and so forth. But the sardines had left the Monterey Bay, and no one could afford anything. And they had all these loans from Reconstruction Finance Corporation. So, I worked on that for quite a few years. A couple of years, at least.

Hicke: Who was buying these?

Raven: Well, other people were eventually buying them up, and so forth.

Hicke: The warehouses?

Raven: Yes, and they had cannery factories and everything. They just walked away from them.

- Hicke: They weren't using them for canning sardines anymore?
- Raven: Oh, hell, no. There weren't any sardines. They just walked away from them.
- Hicke: So what did people buy them for? What use were they?
- Raven: Well, I think a lot of people thought, and rightly so, that sardines would come back—some kind of fish would come back, and that there would be a use for the buildings. They're used for a lot of different things now. Next time you are in Monterey, just drive around.
- Hicke: Oh, yes, I know.
- Raven: I think some of those canneries are still open.
- Hicke: Yes, there are a lot of attractions—
- Raven: Some of them, I think, have restaurants in them now.
- Hicke: Yes, they have restaurants and shops. So they were starting to do that at this point?
- Raven: Yes, that's what we were trying to tell them.
- Hicke: Obviously, they got them at a sale price.
- Raven: Really good price. The RFC really got—but I didn't handle that. I remember that I came back from one of them, and there was an attorney, Pitchman, I think it was—a very good attorney. And they somehow had held everything up. They put it in bankruptcy. So we had to wait, and our client had to wait, and they were up in arms. And this guy was pretty good. He said, "Bob, I can do this better than you can. You know, I've got all the leverage." He said, "I'll take care of you people." And he did, too. He took care of my client and me when it was all over. For some of them, I was there at the auction. You had to be before the building or the cannery, the real property.
- Hicke: The auction had to be held right there?
- Raven: Yes, whereas the goods could be sold someplace else. But I did that all for—it took about two years to get it all done. I'd go down to Monterey on

the train. I finally got to drive a car. But that was just one of the many other things that were going on. So there were a lot of other things going on. And then I got into cases, other cases. I eventually represented Blumenfeld in an antitrust case against the same people.

Hicke: When was that? The sixties?

Raven: Later, yes, later.

### Miller and Lux

Hicke: Do you want to talk about the *Miller and Lux* a little bit? I know you haven't reviewed that. You talked about it off the tape, but you just kind of mentioned people who were involved and—

Raven: The *Miller and Lux*—I've got to bring that back—Mr. Clark was on it. Forrest Cobb was on it. And this old-timer, you would know him if I could just mention his name. He had a kind of a double chin that kind of bubbled when he talked, but he was very good. Well, anyhow, he was one of the great lawyers of San Francisco.

Hicke: I think I know who you mean, too. Harold?

Raven: He was in it too. And C. Ray Robinson was on the other side. Bombosky tried a lot of big cases, who is now back out in Virginia, he worked with C. Ray Robinson on it.

Hicke: The only other I have is Walker Lowry.

Raven: Walker worked with us on—

Hicke: So he was on our side.

Raven: We had another big case with Robinson—later on. But that was a much different case. Dick Archer and I tried that. *Miller and Lux* was the one with Harold and Mr. Clark. They had had that tremendous thing up through the Central Valley—irrigation there in the Valley. It was their children, then, that we were representing. They were being sued involving all that property.

Hicke: Somebody wanted a share in it?

- Raven: Yes. C. Ray Robinson wanted a share in it. C. Ray knew the whole situation well, you know, because he comes from that country.
- Hicke: Was it tried down there in the valley, then?
- Raven: *Miller and Lux* was tried in San Francisco. I think Carter was in that *Miller and Lux* case. I'm trying to remember seeing who was up in front at that time.
- Hicke: Is there anything more about *Miller and Lux* that you recall?
- Raven: Well, they finally settled the case. There were a lot of hearings before judges out in our district court. That went on, but the case finally got settled. In fact, one of the reasons we never had articles in the *Chronicle* was because Mr. Clark was back at an ABA meeting, and he had told [Forrest A.] Cobb not to respond to the press on it. And the press called him about it, and the other side had sent a big memo over about it. He said, "We do not talk about our clients in the newspaper." And for years, they never mentioned our firm. I recently did an article for the state bar, which I thought it was good, but they wouldn't print it. They never wrote me a letter back or anything. But they always said that they would never mention Morrison & Foerster again.

### Tide Water

- Hicke: Let me ask if you remember the *Tide Water*<sup>14</sup> case?
- Raven: That was Mr. Clark's case, and I was involved in that. But I'm going to have to go through those things. I did a year ago, and they're all behind now. The *Tide Water* case will be discussed in there. In fact, I remember it will be. Have you seen the books I'm talking about?
- Hicke: Those files? Yes, I went through them too. That's where I got all these names.
- Raven: They [*MoFo Records Dept*] did keep all my letters. The only bad thing about it—I said to them one time—this is not helping me really that much,

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<sup>14</sup> *Tide Water Associated Oil Company v. Superior Court of Los Angeles County*. [43 C.2d 815; 279 P.2d 35]

because I didn't put down what we were doing and everything. I had a lot of cases. I had an awful lot of cases.

Hicke: That's one of the problems!

Raven: I had a big team, you know. I actually kept bringing people—I'm proud of myself because Jim Brosnahan, I asked Jim to come over. I brought Brosnahan over, and I brought Goldman. And they, and another guy I didn't have much to do with, are the three best trial lawyers in our firm now. Goldman is very good. And Brosnahan is tops, of course.

### Recruiting

Hicke: Let me ask you a little bit about that. You were in charge of recruiting for a while.

Raven: Yes, for a long time.

Hicke: Why don't you tell me what you recall about that? What were your goals? What were you looking for?

Raven: Well, I should give a lot of credit to Dave Nelson too, because the first time we went on the circuit—you know at those times it was odd. When John Austin came over to interview me in 1952 at Boalt Hall, it was the first time our firm had ever come to a school. I take that back. Mr. Clark used to go to Michigan because that's where he was a graduate. But other than that, where he and Dick Archer would go back there once in a while, they never went to a school—Harvard, Yale, or any of that stuff.

And by that time I was kind of in charge of all that and we'd gotten our first woman, who I had a hell of a time with. I spoke up at a firm meeting, and I said, "We're going to bring a woman in for the first time." Hart Clinton started into a tirade. Marshall Small, wonderful Marshall Small, very gentle, very quiet guy. He gave him hell—it's the only time some guy like that gave Hart hell. He ended up by saying, "Hart, you're out in the tide and it's up to your neck." So, we started taking women.

And then we tried to go into these schools. Because then everyone was doing it. See all it was—they were really recruiting the schools. There was a lot of competition. These big firms grew like hell in that period, you know. Dave Nelson didn't go to the first one, you know, but after that, we

would go—to local schools, you know. In fact, we didn't always do those. We sometimes had so many people who had gone there. But we would go back to Chicago, to Minneapolis, we'd go to New York. We'd be gone for a couple of weeks. And we'd go to all these schools—Harvard, Yale, and so forth.

We were there one day when Nixon was there. I think he had joined the Jaworski firm down in LA by that time. He was back at Harvard. He was doing it over in a hotel. We were doing it in there, but someone said, "You've got competition. Nixon's over across the street in a nice hotel." We would go and interview, and we'd bring them out. We started bringing them out. A lot of people thought, gee, that costs money to bring them out, and we said, "Yes, but everyone else is doing it." We'd bring them out on the plane. I would meet them at the airport, in the early days. Like [Richard] Kinyon, he told me the other day, "I remember you met me at the airport." Richard Kinyon, our tax and estate planning man. He was president of the *Law Review* at University of Minnesota. I wanted him badly, and we got him. He has been a great lawyer.

Hicke: Now, when you went to these schools, would you talk to just anybody who wanted to come in and see you?

Raven: Oh, yes. By that time the schools had a guy in charge, and they were always very good, and they had posted it on a board. Someone would send you early on the posting of people who were interested. You even knew that.

Hicke: So they would sign up.

Raven: It became more and more crucial when you got into the summer program. I just got the first end of the summer program years ago. I didn't get into that. But you see, you have the summer program you have to worry about nowadays, too. Hell, I think we had 60 people this year. Someone told me 40 and someone told me 60. It's probably 50.

Hicke: Second-year students?

Raven: Well, once in a while you get one who is going to graduate school, but he still wants to do this, try it out, and so forth. But usually, they're second-year students. Sometimes they're third year students who didn't get out to do it their second year, or something like that. It's a variation. But we went all over. I became an expert at it.

Hicke: Tell me some of the other people you recruited.

Raven: Well, I can just take a look—let me look at Minnesota for a while. We got Baudler—Dave Baudler. He's one of our senior big attorneys now. He was, I think, first in his class. I like to go for the first in the class.

Hicke: Sure!

Raven: Thank God he wasn't a hard worker, just awful smart. He's still a good lawyer, a very good lawyer.

We would go to Michigan State. We went to Yale. We went to Harvard. We went to Columbia. We went to some smaller schools, too. NYU, I think. Not too much of that. We went to the big schools.

Hicke: How about around here?

Raven: Oh, yes. Automatically, we interviewed Boalt, Stanford, then eventually schools down south, you now.

Hicke: UCLA?

Raven: Southern Cal, UCLA, yes. In fact, we started recruiting in Chicago more and in places like that, you know. We would recruit in a lot of places.

Hicke: You said that Dave Nelson went with you?

Raven: Do you know David?

Hicke: Yes.

Raven: You've met David. David came to the firm about six or seven years after I did. He was in corporate. He worked with John Austin. So, it must have been about when he came that I was starting to go on those. Well, the first time, as I said, I went by myself. Then I think that's when, maybe when Dave came in. When I talked to John, we got Dave to go with me because he knew a lot of schools. He had been in *Law Review*. And then they'd pass it down through the years. We had other people recruiting. If someone came from Southern Cal and knew everything well there, then they might go with the person who was going down there.

Hicke: When two of you would go, would the two of you interview one person, or would you split up the interviews?

Raven: Once in a while. We would bring the resumes back and of course—

Hicke: How did you keep track of it all after seeing so many people?

Raven: Well, we took good notes. I'm not good at keeping good notes, but I did for that.

[End Tape 9, Side B]

[Begin Tape 10, Side A]

### Secretaries

Hicke: Let me ask you about your secretaries. Do you recall who your secretary was back in these early days?

Raven: The first one I had, I don't know her name, she was a young girl. She was supposed to be my secretary, but it ended that up that [J. Franklin] Shuman would call her a lot. That son-of-a-gun, I don't know how he knew it, but she'd no sooner walk into my office and he would say, "Bob, I wonder if I might borrow what's-her-name." Soon, I was borrowing her from him.

But then, I had different ones down through the years. I had some really good secretaries. One of the best I ever had was Miss [Virginia] Cobb. I don't know if you have ever heard of Miss Cobb. Miss Cobb came to me many years ago. But she was with me through one of my toughest times.

### Various Cases for Further Discussion

Hicke: In *General Tire*?

Raven: Yes, that was something Mr. Clark was very involved in for many years. And he had me involved in it too, but that's not one of the bigger cases. It got a lot of mention, but ...

Hicke: Here's *Winchester Drive-In Theater v. 20th Century Fox*.

Raven: Yes, that was a case where Joe Alioto represented Ray Syufy. Do you know who Ray Syufy was?

- Hicke: That's the one you mentioned earlier.
- Raven: Yes. And I represented one of the film companies in that. I guess I represented Blumenfeld.
- Hicke: Oh, that was Blumenfeld.
- Raven: There were a number of those cases. It was kind of a clean up—Alioto was kind of cleaning—Max Bleecher and Max Keith were kind of cleaning up what was left—the government case was still applying, and so forth. It went on for some years.
- Hicke: *Vermont Marble v. Roscoe Ajax Construction?*
- Raven: That doesn't mean anything.
- Hicke: You said you wanted to look some more at the Tide Water files before we—
- Raven: The reason I do is that was quite an interesting case, and I helped Mr. Clark on it, and he had some clients—and I think that might have been where C. Ray Robinson's young guy who had worked with him on those other cases worked on that case. Not C. Ray. I think he might have been in on that Tide Water case.
- Hicke: How about *Jefferson v. French*?<sup>15</sup>
- Raven: That was a case that I did for Mobile Car Company. Did a number of them down through the years. But they're not big cases. I haven't gone through and picked out the really big cases, I guess.
- Hicke: I think one of the big cases was with IBM and Fujitsu.
- Raven: Yes. That went on for nine years.
- Hicke: Maybe you could look through your files for that. And Memorex and IBM?
- Raven: That was a nine-year case. For two of those years I was president-elect of the ABA, so I was just on the run most of the time, but I did go over to Japan with those guys. We had a big crew over in Japan, you know. That

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<sup>15</sup> *Carl E. Jefferson v. J. E. French Company*

was a big case. We were up against Tom Barr (Cravath in New York) and IBM, you've got a big fight. But that was a great fight. That's something we ought to talk about.

Hicke: But you want to look at your files first.

Raven: Yes, I might even have something here on it.

Hicke: Let's put these off.

Raven: I think we should.

### Mystery Case

Raven: The case I keep having a tendency to mix it up with is a case that we tried, Dick Archer and I tried down in the valley, right in the courthouse in Hollister. The courthouse that burned down. Vince Mullins was the one on the other side. Walker Lowry was on our side, although he was looking to us because we had the insurance. Do you remember the guy, he died a couple of years ago, he was over at Ted Kolb's, a partner? Great big guy. A big guy. He was well known around town. He was a good lawyer. And he represented the people—this one I'm still talking about is down in Hollister—he represented the son and the daughter of the guy that built the 49ers, who have been practicing in Stockton this year.

Hicke: I don't know.

Raven: Well, he was the big man. He founded Stockton, this guy.

Hicke: Well, you know that you can fill that in. But this was a different case.

Raven: Yes, the one down in Hollister was a different case. That had to do with mineral rights. When Shell discovered those big wells down there. And this family from Stockton, the young daughter who is very wealthy, through Vince Mullins and through—oh, the guy, you know him too—quick lawyer over in Marin—was in it. We tried it, Dick and I tried it down in Hollister, and we won it. And then it went to the court of appeal, and I think it was sustained. It might have been overruled there. I'm trying to think. Then it went to the California Supreme Court and the longest opinion ever written—Al Beatty called me one day, and he said, "Bob, you realize you are keeping me on as clerk of the supreme court. I can't come out there to work and be a

lawyer, because my judge”—that’s the judge who died, he was a judge for pretty well a long time on the supreme court. Yes, we’ll have to talk about that case some other time. But that’s a big case that we’ll run into as I go through my cases.

[End Tape 10, Side B]

VIII. ANTITRUST PATENT CASES: RECOLLECTIONS WITH WILLIAM ALSUP, PETER PFISTER, AND PRESTON MOORE

Interview 6: December 10, 1998

[Begin Tape 11, Side A]

Florida Avocado Group and Anheuser Busch Cases

- Hicke: Let's start with Peter Pfister.
- Pfister: Let me first mention—I'm going to back up—even before my first case with Bob Raven. The first case I remember that involved Bob Raven was one I learned about from the judge I was clerking with: Judge Conti.
- Hicke: Samuel Conti.
- Pfister: Sam Conti, right. And, in fact, that case and one other that you tried in front of Judge Conti really were among the reasons that I ended up with Morrison & Foerster. I think I mentioned that to you. Judge Conti talked about the avocado cases.<sup>16</sup>
- Raven: The avocado cases in Florida.
- Pfister: Yes. Avocado case—that's a big case. Now let me just give you a little example of what I understand that case was about. That case was tried before Judge Conti before I clerked for him. *[Bill Alsup enters the room]* Bill, how are you doing?
- Raven: Have you met Bill Alsup?
- Hicke: Yes. Hi, Bill. I haven't seen you for quite a while but—
- Alsup: Nice to see you.
- Hicke: It's nice to see you, and thanks for coming down. We're already on tape and Peter is—
- Pfister: We're just going to talk a little bit about cases and help Bob refresh his recollection about some cases.

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<sup>16</sup> *J. R. Brooks & Son, Inc., et al. v. Ronald Reagan, Governor of California, et al.* US District Court, Northern District of California. Case No. C-71-1311 SC.

- Hicke: Now was Bill here when you came?
- Pfister: Oh, yes, he was.
- Hicke: When did Bill come?
- Alsup: I came permanently in January 1973.
- Pfister: So both Bill and you were old at that time when I arrived as a youngster.
- Raven: You go ahead—I won't interrupt you.
- Pfister: I was just mentioning the first cases I knew about—I actually learned about before I arrived at the firm—that involved Bob. And that was because Judge Conti talked about Bob Raven and the avocado cases. Because Judge Conti sat as a district court judge on a three-judge panel.<sup>17</sup> I don't know who the other judges were.
- Raven: One was—oh, that wonderful guy from San Francisco who was a judge for many years, then died, tall—
- Pfister: The reason I remember that case so well—two reasons. One is that I love California avocados and in that case you represented the Florida Avocado Group.
- Raven: And we won that case!
- Pfister: Well, and here's the issue—I remember the issue. There was a statute in California that had an 8 percent oil content requirement—
- Raven: Right.
- Pfister: —for avocados. It was a quality control. Now, it just happened to be that California avocados satisfied that eight percent oil content requirement.
- Raven: Just happened that way.

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<sup>17</sup> Three-Judge District Court: Hon. Ben Cushing Duniway, Circuit Judge. William G. East, Senior US District Judge for the District of Oregon. Samuel Conti, US District Judge for the Northern District of California.

- Pfister: Just happened that way; but none of the Florida avocados would satisfy that requirement.
- Raven: They were only like three percent.
- Pfister: So none of the Florida avocados could be sold in California.
- Raven: That's right.
- Pfister: And you thought that was a blatant violation of the Constitution and, in fact, that's the way it turned out. I think they found—
- Raven: They had already been up, you know, to the Supreme Court once before we got into it.
- Pfister: Interstate commerce.
- Raven: I think that guy died or he was an older fellow from Florida, and I had a call from Florida to see if I'd take it.
- Pfister: I don't know how that case came in.
- Raven: Sam Daniels, an attorney in Florida, was a friend of Marshall Small's. They went to school together, I think. He called Marshall, and Marshall referred the case to me.
- Alsop: Bruce Dodge worked on that case.
- Raven: Oh yes, because they loved Dodge down there in Florida. That's right, Dodge was a big member in that case.
- Hicke: Why was it against the Constitution?
- Raven: You know who the other person was who was very good?
- Pfister: It was a restraint on interstate commerce.
- Raven: Newman's wife. Newman's wife had just come with us as a paralegal.
- Hicke: Oh really? Frannie?

- Raven: And she was smarter than hell. She'd been into everything. And we had her up there as a witness, I mean, helping. God, she was great. She went over to Nevada and sold avocados for us, and she reported on that.
- Pfister: I remember talking to Bob about that, and I told you at the time that I thought it was the right legal result but the wrong culinary result, because I think Florida avocados taste lousy. *[laughter]* It's true!
- Hicke: Because they don't have enough oil in them?
- Pfister: Exactly!
- Raven: Brennan was the one who wrote the opinion and the one who sent it back.
- Hicke: Who did? Bob?
- Raven: Brennan. Justice Brennan. I saw him over at Boalt one time—the hotel over there at some function. I went up to him, and I said, “I remember you were on the avocado case.” I said, “I took that over when it came back. You sent it back and I came out here and I took it over.” And, I said, “We won the avocado case.” He said, “Mmm, my.” *[laughter]*
- Pfister: Well, anyway, Judge Conti was very impressed with you in that case. And, the second case he talked about was an antitrust case involving Anheuser Busch.
- Raven: Sure! He was on the Anheuser Busch case, wasn't he?
- Pfister: Right, he was the trial judge and, I think, you and Jim Garrett—
- Raven: Jim Garrett and I tried that case, yes. We had a good jury.
- Pfister: And, in fact, when I said it had something to do with my being here, I remember Judge Conti saying, “Colette, get Bob Raven on the phone. Get Bob Raven on the phone. Peter, you ought to go talk to Bob Raven.”
- Raven: Good for Conti.
- Hicke: And that was your introduction to this firm?
- Pfister: That was my introduction to the firm. I had interviewed at some other places—

Raven: Those were two great cases, and I had even forgotten they were good cases. Garrett was also on that case.

Alsop: Yes, I think Garrett was also on that case. Then the sugar cases were—

**“Antitrust on the West Coast? It’s Bob Raven.”**

Pfister: That’s right. I was just going to say that a couple of other cases that were very active just before I arrived so they must have been active, Bill, when you were around. The Western Liquid Asphalt cases, do you remember those?

Raven: Yes.

Pfister: Bruce Dodge, I think, worked a lot on asphalt cases.

Raven: Yes.

Pfister: These were multi-district antitrust cases involving the asphalt industry and then—

Raven: Brobeck was involved in it with us and a number of attorneys—

Pfister: Right. And then the sugar cases. And those sugar cases continued into the 70s. And what these were, again—

Raven: These were the big cases. Multi-district cases, most of them were multi-district cases. In other words, they could be brought way across the country out here. And, because California—[Preston Moore enters the room] How are you? Have you met Preston?

Hicke: I don’t think so. Hi, nice to meet you.

Moore: Good to see you.

Hicke: Pull up a chair somewhere, or thread your way over here.

Pfister: But it was a very active practice area at the time. That’s because there was a lot of government activity in the antitrust area. There would be, basically, indictments on price fixing and government investigations industry-wide of price fixing in each of these industries. And, even some monopolization cases, but most often they were price fixing investigations. And, then, there

was a very active plaintiff's bar—very active in San Francisco—that would file cases—

Raven: And in Chicago.

Pfister: —that would file class actions and, of course, they would then ride somewhat on the government's coattails because the government would have already conducted a lot of investigation and, of course, if there actually were an indictment and a conviction, there was a *prima facie* case. Isn't that right? They would get the benefit of a *prima facie* case, so—

Hicke: Tell me about the sugar case.

Pfister: The sugar cases—none of us here in this room were involved with this.

Hicke: So you wouldn't know —

Pfister: Shelley [Rochelle D.] Alpert and Marc Fairman worked with you I think on those cases.

Raven: Yes.

Pfister: But once again, I think they were industry-wide, price-fixing cases.

Raven: There were a lot of them.

Pfister: All of them had to do with allegations of meetings in cigar-smoke-filled rooms where people were talking about prices and output [*inaudible too many people speaking at same time*—prices seemed to be the same.

Raven: We'd go to court, and there would be 40 to 50 lawyers out there. There would be 25 from the plaintiff bar and another 30 or 40 from the various—. There would be Pillsbury. There'd be Foerster. There'd be [Joseph W.] Cotchett and Arthur Dunne—

Pfister: The point I wanted to make was that you asked what Bob was involved with when I arrived at the firm—antitrust was a very, very active area. And I can remember as I interviewed with the firm on the day the 10th Circuit decided against Telex on an important motion in the IBM litigation [*inaudible; Raven and Pfister speaking simultaneously*] and that is another huge case that Bob was working on at the time I arrived. I'm not sure, Bill, whether

you ever worked on that. We represented Memorex Corporation against IBM in a huge monopolization case against IBM. And that was unusual in some respects, because this was a big firm that primarily did defense work and we were representing the plaintiff against Big Blue. There were a lot of actions in the country that followed on that: the Telex case and a number of others. Of course, there was the Justice Department investigation, the case that was going on against IBM during that time. But there was a very active antitrust practice at that time.

Raven: Do you know now that they just ruled that multi-district cases, you can take them to California if you want, but you can't try them there, unless they originated there? You have to go back now to the place where they originated. It just happened within the last couple of months. I saw a case on it.

Hicke: How does it happen that you were the plaintiffs in this case?

Pfister: That was a decision before all of our time. Were you in the firm, Bill, when we took on —

Alsup: I can't remember. It was roughly at the time.

Raven: We did a lot of work for Memorex.

Alsup: Memorex was a big client.

Raven: They came in really through John Austin. In fact John Austin and Judge [William] Orrick got rich on that company. God, he made a lot of money—he invested in it.

Alsup: Mel did a lot of work. Dave Nelson did a lot work.

Raven: Dave Nelson did an awful lot of work. Dave worked most of the time on it.

Alsup: I think Memorex was the largest client of the firm at one time. Crocker was normally the biggest, but Memorex one year was the biggest client.

Hicke: So what happened—the firm was already representing Memorex, and then when they decided to sue—

- Alsup: When the biggest client of the firm says we want to be a plaintiff on the antitrust side, I don't think it was even a big issue. There is not that kind of a conflict that sometimes you have, say, in the employment area. We have done historically plaintiff cases on the antitrust side.
- Raven: One of the big ones — we stopped representing. We agreed to take the IBM case against Memorex for a while, but they wanted to do a lot of contingencies. I remember thinking we would never get paid on this in a million years. And we moved out of that.
- Alsup: Stan [Doten].
- Raven: Stan stayed. We had three people stay down there. We had Stan, Sharon Green, and a big, tall guy—very good lawyer—no longer with us—they stayed down there.
- Pfister: In other words, we spent many years on the case, and then at some point we decided to get out of it. Didn't Gibson, Dunn [& Crutcher] take that case on?
- Raven: Yes, they did, and they lost.
- Hicke: So it was mostly taking place in LA?
- Raven: No, up here; mostly up here. This was a great focal point for the multi-district cases because a couple of the judges here were on the national multi-district panel, and so these cases were flowing out of here like that. Who were the ones that were on the national panel? Who was the one I couldn't think of who died? He was a wonderful judge and had been on the Court of Appeal for years. Just a prince of a judge. He's also the one that was on the avocado case. He was one of three judges we won before. Conti, of course, was the presiding Judge, but then we had—
- Alsup: I think—if I could put a different spin on what Peter is saying, if you looked at litigation today in the federal courts and in trying to measure what the judges spend their time on, on the same, similar cases, you would find about a third of their time—maybe more—is going into patent cases. And that has been true for 10 or 20 years. If you go back to the 1970s, you would find that the judges were spending one-third, maybe 50 percent of their time, on antitrust cases, and a large part of that would be on these big, what are called multi-district gigantic cases with maybe 20 to 30 parties involved. You

would find one percent of their time or less on patent cases. Today, it's the reverse. You find very few antitrust cases; changes in the law have done most of that.

Pfister: And the IBM cases.

Raven: Preston, when did you start?

Moore: I started just after Peter.

Raven: What was that big case that you and Ron worked with me out—

Moore: That was the Western Railroad case.<sup>18</sup>

Raven: Oh that's right.

Moore: The very first one.

Raven: I remember you two guys argued with me.

Moore: No. No. We certainly didn't. You argued. You did it quite well.

Raven: I probably had a load of notes.

Hicke: Tell me how this came about. This case.

Moore: Oh well, this was right in the vein that Peter was describing, the antitrust cases that would come along. This one has a very august lineage. It's a very old, old Hatfield and McCoy feud between the truckers and the railroads. They had been at each other's throats—they don't anymore, but back then it was the truckers and the railroads. The famous Noerr-Pennington case in the antitrust area was all about truckers and railroads—who was going to get the share of the traffic—and this case really fell out of that. It was a case brought by a trucking firm against all the major Western railroads, who claimed that in order to reduce the rates that the truckers get for handling freight in certain corridors in the West Coast—particularly I think LA and San Francisco—the Western Railroads had agreed to put through a phantom rate under which they knew they would never move any

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<sup>18</sup> *BBD Transportation v. Union Pacific Railroad.*

traffic, but it would keep the head of the adversary under water long enough to make them drown.

Hicke: It was a low rate, I take it.

Moore: Yes, it was a low rate, and this was a low-pricing case, not an overcharge case. This was a predatory pricing case with a lot of exquisite issues about the regulatory competitive interface, because at that time, railroad rates and trucking rates were both regulated by the State PUC. So this rate had gone through the regulatory process and had received whatever rabbinical blessing a regulatory agency gives these things, so the position of the railroads was, "This is an approved rate. You can't attack it on antitrust grounds." And plaintiffs' lawyers had various theories why they could, and that was where the case was brought. They also had a couple of steel companies that they alleged were in bed with the railroads on all this, and they first brought a lawsuit against the steel companies; collected what, back then, was a fair amount of money.

Hicke: Who is they?

Moore: The people representing this small trucking firm, and it was a small and very high-flying plaintiff's antitrust firm here called Broad, Curry & Schultz. Gene [Eugene] Crew was the lawyer on the other side.

Raven: A real good lawyer.

Moore: Quite a good lawyer and a really fine person. A really first-class person.

Raven: We always had a great relationship with him.

Moore: A first-class person. Bob called him up for a continuance of our time to answer right after that case was filed, and Crew was being a little sticky about giving it. And Bob, in one of the first Bob-ish moods I ever saw, sort of brushed it aside and said, "Gene, I'm not going to let you do to yourself what you would be doing if you didn't give me this extension." [laughter] It was the kind of relationship that permitted that kind of thing to happen. I was sitting there in wide-eyed wonder looking at this and seeing him pulling it off. He had the *gravitas* even back then.

Raven: Who was our judge on that case?

Moore: Well, it was a very funny piece of history, because the assigned judge was William Ingram. However, we never saw Ingram, because Ingram had completely handed off his entire civil docket to Magistrate David Urdan because he was doing—he, Ingram—was doing the Harry Margolis's tax trial. Margolis was a famous tax lawyer who had everybody's money sitting in Caymanian shells and was doing all these incredible things. He got indicted and it was incredibly complicated. It was an unbelievably complicated case. So Ingram said,—what a wonderful judge he was—, "I've got to devote myself entirely to this. This is really all-consuming." He handed off the whole civil docket to David Urdan, so Urdan is presiding with the case when it starts, and we never reached all the wonderful, exquisite, regulatory issues, predatory-pricing issues. All of us around here were having great fun analyzing all this stuff, then Raven got the case dismissed on a statute of limitations ground.

Hicke: Spoiled everyone's fun.

Moore: Spoiled everybody's fun. It was really a big disappointment. They started with the steel companies, and what they wanted to do was kind of take this in two dips. Crew figured rightly that he could take one bite against the steel companies and then come back separately against the railroads, he could get more money that way. But it turns out he waited too long. So that was kind of an interesting twist.

Raven: I remember both you and Ron Carr. Those guys were great.

Pfister: I can remember the two of them talking about the statute of limitations point. I may be wrong on this, Preston, but the whole concept was a completed tort that was outside the limitations period, and you would talk about unabated inertial consequences of pre-limitations acts.

Raven: God, I remember that.

Pfister: Do you remember?

Moore: Yes, I do. I do remember that we never thought we would win. In fact, the way this started, we were representing a secondary defendant, the Union Pacific Railroad. Although it's a big railroad, it didn't have most of the traffic. Most of the traffic moved on Santa Fe and Southern Pacific.

Raven: Wasn't that how we got the business—originally through them?

Hicke: Through Union Pacific?

Moore: Well, Union Pacific was our client. I don't remember how they came to us. I think they came to Bob because of his antitrust reputation. They were a secondary defendant, and Santa Fe and Southern Pacific were kind of supposed to take the lead, because they had the heavy exposure in the case. So they had one of those meetings like they used to always have; with all these parties. Southern Pacific and Santa Fe were there with their in-house lawyers and, taking nothing away from the many fine people practicing in-house, these people were utterly innocent of any knowledge of the antitrust laws. These were people who had done crossing accidents, and so they were sent out to do these issues, and the Santa Fe people were supposed to look at the limitations issue. They came back and said, "There is no limitations defense here. It's utterly pointless to file the motion." So Carr and I sort of raised our hands. "Well, we would like to take a shot at this if you wouldn't mind." This was back when—you know, today if you did that our client would have screamed, "Why should we pay for that?" But back then money kind of flowed a little easier. I think my billing rate was 80 bucks an hour or something like that. Anyway, so we worked this up. We didn't think we would win, and there was this one case that talked about the abatable, but unabated inertial consequences of pre-limitations acts.

Raven: You guys didn't make the stuff up.

Hicke: No wonder the judge—

Moore: Raven was able to utter that little euphony quite well in front of David Urdan that had a ring of plausibility. And Crew was kind of standing there spluttering that this can't be happening. What's going on here? What are you talking about? Abatable, but unabated inertial—Urdan dismissed it, and we called up the client. I remember Bob called up the client and, of course, as usual, Bob reflected all the sunshine from this event downward to me and Ron when actually it was Bob who stood up there in the courtroom and said this in a way no one else could. I'll never forget the client's reaction. A guy by the name of Bill Higgins from Union Pacific in Omaha, he said, "The judge dismissed it? He dismissed it?" It was like he couldn't believe it.

Raven: God, I had forgotten all about that.

Moore: That was quite a fun case.

- Pfister: This activity in antitrust and Bob's reputation in antitrust spilled one opportunity after another to all of us. You know, Bob, you would come into the office and say, "Well, I know you are real busy." And you would walk back and forth, and you'd have a file in your hand. "Do you think maybe you could just call this person back to see when the answer is due and whether we can get a short extension of time to respond?" and then all of a sudden we were in the middle of another antitrust case you had brought in.
- Moore: You were in there.
- Pfister: You were in another case.
- Moore: You were inside the whale again.
- Pfister: But it was not just the huge class actions, huge price fixing, monopolization cases. Because at that time, antitrust law had reached really the pinnacle of its liberalizing. It was easier to prove antitrust cases than at any time before. People would convert contract actions into antitrust cases. So every terminated distributor, for example, would say not only is there a breach of contract, but it's also an antitrust violation.
- Raven: Who was president at that time—president of the United States?
- Hicke: Is it the mid-70s or late-70s?
- Pfister: I'm talking about the mid-70s, shortly after Nixon resigned. I can think of a series of terminated distributor cases that were fun cases. They came directly to Bob, and then Bob would hand them off. Of course, those were opportunities to work on. I don't know if you even remember some of these. There was a Nash Engineering case that involved liquid vacuum pumps.
- Raven: Wasn't that down in Fresno?
- Pfister: I think you got that as a reference from some friend of yours? Some partner at Sherman & Sterling referred it to you. We were local counsel but then took over the defense.
- Raven: Was it in the federal court here?

Pfister: Yes. Then there was another one, Stauffer Chemical, where somebody at Covington referred it to you. We represented Stauffer in a dispute involving a Mexican distributorship.

Raven: Was that the one we tried over in Oakland?

Pfister: That wasn't tried. We won that on a motion to dismiss. But there were a number of those terminated distributor cases that were coming in at the same time the big cases were coming in. One of the big cases that came in at that time and that in fact Preston and Bill and I all worked on with Bob were these timber cases. Again, they were cases that started with grand jury government investigations of bid rigging in the Tongass National Forest. That is, investigations of the two big pulp mills in Southeast Alaska. Ketchikan Pulp Company was our client, with a pulp mill in the South Tongass, and Alaska Lumber & Pulp was the only other pulp mill, in the North Tongass in Sitka. The Government accused the two mills of price-fixing and monopolization. The Government and later the private plaintiffs claimed that the two pulp mills had an agreement not to bid against one another for United States Forest Service Timber, or for logs or logging services. We were not involved in the initial government investigation. Lane, Powell, Moss & Miller, which is a law firm in Seattle, was involved, and D. Wayne Gittinger, who knew and respected Bob—I don't know whether it was from the sugar cases or from other cases that you handled—called Bob and got us into the civil cases.

Hicke: Which side were we on?

Pfister: We represented one of the two mills that were accused in several cases by independent logging companies of a whole range of antitrust violations, including conspiracy to fix prices paid for their logs and logging services.

Raven: *[inaudible, Mr. Raven is speaking at same time as speaker]*—operated it a great guy Merlo.

Pfister: Harry Merlo. Louisiana Pacific Corporation ended up being the sole owner of Ketchikan Pulp Company. When we got in the case, it was 50% owned by FMC Corporation. Remember that?

Moore: Food Machinery Corporation.

Raven: I do kind of remember.

- Pfister: And then there was a spin-off.
- Moore: L-P bought them out.
- Raven: You know, when I first came here they were a big client of ours. Then when Roland Foerster died, I think that is when we ...
- Hicke: We are talking about FMC?
- Raven: Yes. Then the son of the president went to some other firm, and we lost them like that.
- Pfister: But that case that Preston mentioned about Gene Crew had another element, and that was that we had adversaries who were top-notch.
- Moore: They were great.
- Pfister: In fact, the lead trial people were great lawyers and great people, too. The lead trial lawyer for this group of independent loggers and mill operators in southeast Alaska who were suing the big mills was Bill Dwyer.
- Raven: A lawyer or a judge up there?
- Pfister: I think he may be the chief judge in Seattle. A firm called, I guess it was Culp, Dwyer, Guterson and Grader.
- Moore: Murray Guterson's son is David Guterson, who wrote *Snow Falling on Cedars*<sup>19</sup> if you are a fiction fan.
- Pfister: I didn't know that. I read that book. It's a great book. Good idea for a Christmas gift too.
- Raven: Last I saw Bill, he was in a wheelchair. I wonder if he still is.
- Pfister: He's had such bad back problems.
- Moore: Parkinson's disease.
- Raven: Is that what it is now? I saw him at a meeting back in Washington, D.C. The first time I saw him in a wheelchair.

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<sup>19</sup> Guterson, David. *Snow Falling on Cedars*. Harcourt Brace. 1994.

Pfister: He's a great guy.

[End Tape 11, Side A]

[Begin Tape 11, Side B]

Raven: I remember when I went over there at the last to try and settle that thing, and you guys wouldn't talk to me. None of you would talk to me.

Pfister: A little background. We had been at pretrial for six years before the case was tried.

Raven: Peter gave me lectures.

Pfister: The case was tried in 1980, and it's true, once it was in trial I think people wanted to see it to the end. Bob recognized that there were serious, even political, ramifications to an adverse judgment against Louisiana Pacific. And it turned out to be right—that there were some problems with some of the rulings.

Raven: You people did a hell of a job on that. I was about to become president of the state bar, and luckily they had to divide it up between Bill Wenke and me. He kept saying, "Bob, I want to go first." "OK. You go first, you go first." So I spent four months up there, you know, while he was doing his half, and then I'd go. Remember that?

Hicke: What were the political ramifications?

Pfister: Oh, it's simple. In a nutshell, Bill Dwyer once paused in court and said, "If only I could spread the documents that I have in this case over 100 cases." There were documents that were problems for us in terms of whether there were antitrust violations in the Tongass National Forest. There was a man, well we shouldn't go into the individuals right now, but in the past, even before the limitations period, there were documents that suggested that these two mills cooperated far more than they should have. So Bill Dwyer and his plaintiffs felt that they had a very, very strong case — a strong likelihood of proving antitrust violation. Because of the great work Preston did on the causation and damages side of this, though, we all convinced ourselves that even though there may have been antitrust violations flying through the Tongass National Forest, none of them hit the plaintiffs. The plaintiffs were not injured by any of those violations. So we said there were no violations in the relevant period, and if there were, these plaintiffs were helped, not

hurt, by those violations. And by the way, we were right. I still believe that we were right, at bottom, on the fact that these plaintiffs were not hurt. We had a judge in that case, Barbara Rothstein. It was her first case in federal court, and I think she had a concern. She definitely concluded that there were antitrust violations. She also understood the causation arguments. But I don't think she could bring herself to say, "I'm going to let these people off Scot-free."

Raven: Well, you guys did a hell of a job there.

Pfister: So what happened was, this was a case ...

Raven: You did more than I did. I didn't argue much in that case. You argued a lot in it. Did you do the damages?

Pfister: Preston did all of the cross-examination of the experts. But it ended up being a situation where, and again, this is not public information, but I think the lowest demand that Dwyer ever made during the trial for the Reid Bros. case<sup>20</sup> alone was \$16 million. That was the lowest he came. They won the case, but they were awarded \$490,000. It was then trebled, but that was a very, very disappointing damages result for the plaintiff.

Raven: We fought them on that even, didn't we?

Hicke: Does this case have a name?

Pfister: Yes. *Reid Bros. Logging Co. v. Ketchikan Pulp Co.*, and there was a series of other cases.<sup>21</sup>

Raven: Well, we got to spend a fair amount of time in Ketchikan.

Hicke: Is that the good news or the bad news?

Raven: Oh, good news. I kind of enjoyed it.

Alsop: Let me tell you one aspect of that case that has nothing to do with the law, but more about the culture of how this place worked in those days. That

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<sup>20</sup> *Reid Bros. Logging Co. v. Ketchikan Pulp Company.*

<sup>21</sup> Penttila Logging Co.; Ben Fleenor dba Herring Bay Lumber Co; John Allen dba Southeastern Cedar Products; Dean Hiner.

case went to trial in 1980, as I recall, and when I, from 1978 to 1980—July 1980 I was in the government back in Washington, so I was taking some time off from here. So I came back and went on a hiking trip in the High Sierra. I had nothing to do with this case. These three had been working this case up, but it had gotten put on the shelf because the judge who had the case took it off trial, and I remember they put it all the way in storage and went on to other cases.

Moore: We had docket backlog.

Pfister: Oh, and also Judge Sharp, who was the original judge on the case, got a fatal illness.

Alsop: Right. So the case didn't look like it was ever going to go and I remember how disappointed they were because they kept thinking they put all this work into it and it's never going to go to trial. Anyway, I come out from the mountains, and I'm literally right there at the trail head, and there is a message from Bob Raven, "Go to Seattle immediately."

Moore: Would you just call this guy back and see if we can get an extension?

Hicke: "Do Not Pass Go" and do *not* collect \$200.

Alsop: It was not, "Just call this guy back." It was, "Go to Seattle immediately." And I said, "What is this all about?" I was thinking on the way home, what could be in Seattle? I thought, "Well, maybe it's those timber cases." What had happened was, a new federal judge got appointed, and this dormant case then got assigned to the new judge. The new judge said, "I'm putting this case down for trial in six weeks," or some very short time.

Moore: In the teeth of all predictions that even if a new judge did come in, it would be at least six months.

Alsop: Preston had been saying, "Well, Your Honor, we can't even get the boxes out of storage in six weeks. It is such a huge case." And the judge said, "Tough. We're going to trial."

Hicke: She didn't have anything else to do?

Pfister: It was a new judge. It was her first case in federal court.

Alsup: Bob—this is an exaggeration—but one of Bob’s approaches—like many of his approaches—is to throw as many people as possible into the problem. Money is no object.

Raven: Be the ones with the largest army.

Alsup: So I had no experience in this case whatever, and yet I was being drawn in. Bob reserved an entire floor of the Park Hyatt Hotel in Seattle. Whatever it was, we had an entire floor of legal assistants and lawyers, and Bob was there and this army of people, and there were other people here. Kathy Fisher was in that case, Kathy Bagdonas was in that case.

Raven: Our chairman was in it for a while until he —

Alsup: Brosnahan?

Raven: Dunham.

Alsup: Oh, Steve Dunham. We had an army. I’m telling you, it was an entire floor.

Hicke: General Raven commanding.

Alsup: And so everyone, because it was such a short timeframe, we had to get witnesses ready. We had to get exhibits ready. We had to get motions ready and all of this going 12 to 14 hours a day. Xerox machines in the entire office. The whole thing was moved up to Seattle. So the case was tried in Seattle before that judge. Meanwhile there were these short airplane trips back and forth to Ketchikan for various people. It was like a regular run, because that is where our client was located—where Ketchikan Pulp was located.

Raven: Who was it that was general counsel for the president? I can’t think of his name.

Pfister: John Crowell.

Raven: Yes. John. I called him up, you know, because I was running for president, I called him up and said, “We’ve got these wonderful guys on this case. They know more about it than I do. They are the ones who have been working on it. You don’t need me on it.” He said, “Oh no. You’ve got to come.” So then I started sweating. And I said—I tried to talk to people like

John Austin—I said, “Well, I might as well give up on that. If we go up there it’ll take months.” And he said, “You never know. Take it right down to the wire and just take it right down to them.” So we got in a contest out at the California State Bar between Bill Wenke and me, you know, and we had it tied up for three months or something like that.

Hicke: Was this maybe the first time that the firm had moved *en masse* to a —

Alsup: Oh, no. I’m sure we’d done that kind of thing before, but ...

Raven: Archer was doing the same thing over at Utah [Construction Co.] that time on the big cases he was handling over there. In fact, he took Howard Downs from us.

Alsup: That was earlier, though. He had already left by this point because the timber case went to trial in 1980.

Raven: Dick had the big banking cases.

Pfister: That was before 1975.

Alsup: That was before 1971. That was around 1970 is what you’re thinking about on that. But his idea of Morrison & Foerster swooping into a city, taking over a whole floor of a hotel and sort of invading the local courthouse and making ourselves at home, that happens a lot still today.

Raven: Remember my first night up there at the hotel, and our client, what did he say?

Pfister: Harry Merlo came into these offices and saw all the keys to all the rooms that we had in this hotel. And he’s hearing all the typewriters, because we had secretaries out there banging things out. He saw people going through—We had a manual computer system. There were no computers at that time.

Moore: Mag typewriters.

Pfister: And also document retrieval. We had these ridiculous spindle cards that never worked.

Hicke: Those little IBM cards.

- Pfister: Yes. And so there were just lots and lots of legal assistants and lawyers, and he looked at us and kind of looked up at the ceiling and said, "Well, the big money is behind us. Let's go forward."
- Moore: There was talk of settling at that time. So Merlo looked at these keys and said, "The big money is behind us, Bob. Let's go ahead."
- Pfister: But six years of pre-trial involved a lot of discovery about the United States Forest Service practices, the history of the Alaska timber industry, which is fascinating because it goes back to the government trying to protect the United States from the Russkies. The U.S. wanted to create an incentive for these pulp mills to be up there to have year-round, manufacturing-based employment, to assure a stable population in Southeast Alaska that could defend against Soviet attack. The government involvement in the industry made the antitrust issues more complex. The legal issues were interesting. The people were real characters. We had a lot of depositions throughout the Pacific Northwest, and there was color to those depositions.
- Raven: Especially from our other friend from the other —
- Pfister: Rich White?
- Raven: Rich was from another law firm up there.
- Pfister: He represented Alaska Lumber & Pulp. He was just a character. All of the people we ran into were all—
- Moore: Unbelievably vivid characters.
- Pfister: Preston will remember, I think you were in this deposition of our most interesting character, a Mr. Arthur Brooks. Art Brooks wrote a lot more letters than he should have. He wrote three on one day that were some of the worst.
- Raven: There were a lot of long nights in Alaska.
- Pfister: Just long letters, memoranda, that suggested predatory intent. Letters to his competitor that suggested collusion. We wouldn't say that they necessarily proved either of those things but they were difficult letters to explain.
- Hicke: Explain what he was and what he was doing.

Pfister: He was the timber manager of Ketchikan Pulp Company who was responsible for deciding where to bid, and what to pay loggers. And so he would write about what sales he would bid on and not bid on and why. He would write to his counterpart at his competitor and talk about log prices, for heaven's sake. They were bad antitrust documents. He was an old character who had retired long before the incidents that caused the plaintiff damages occurred. But do you remember Manley Strayer, a great old lawyer who I think was from Portland? He represented Art Brooks individually, because Art Brooks was no longer with the company. Manley Strayer had this big cigar, and he had eyebrows that almost went as far out as his cigar.

Raven: BIG eyebrows. Good lawyer.

Pfister: He sat there next to Art Brooks, who was a diminutive, wiry, feisty guy — a lot of energy. I remember at one point in the deposition, Richard Yarmouth was asking the questions, and it was just a transition. He had been asking questions about Reid Bros. Logging Co., which was one of the plaintiffs, and then he wanted to start asking questions about a little mill: Herring Bay Lumber Co. that was owned and run by a man named Ben Fleenor. And so Richard Yarmouth asks, “Well, Mr. Brooks, you are familiar, are you not, with Herring Bay Lumber Company?” “Well, yes, yes. I know Herring Bay Lumber Company.” “And do you know Ben Fleenor? You know Ben Fleenor, don't you?” And Brooks says, “I know Ben. Of course I know Ben.” And then Yarmouth—again a foundational question—“You are aware, are you not, that Ben Fleenor doing business as Herring Bay Lumber Co. has also filed an antitrust suit against Ketchikan Pulp Company and Alaska Lumber & Pulp Company?” And Art Brooks just bolts up and says, “What? Why, that little bastard!” And Manley Strayer, who hasn't said a word in the entire deposition, he just takes his cigar out of his mouth, looks at it for a second, and leaving his cigar in front of him, slowly turns to his left and stares at Art Brooks. Art Brooks squirms and then says, “Well, well, he's a nice little bastard.” Strayer just turns his head back to his cigar and puts it back into his mouth. The deposition continued.

Moore: Or the testimony of the Japanese marketing manager from—

Raven: I'd forgotten about him.

Moore: Mr. Nakasi, Shorchi Nakasi, who was part of the consortium of Japanese trading companies that owned the co-defendant, Alaska Lumber and Pulp.

Nakasi was deposed about prices and stuff and was always being controlled from Japan and what not. This may have changed in my memory, but in my memory Nakasi was an incredibly diminutive man and quite dapper. His feet I don't think even touched the floor when he sat on the chair at the deposition. He had his hands folded, hair perfectly coifed, a little silk triangle thing in the pocket. Rich White, our co-defendant's lawyer, was sitting there next to his guy. I'm there kind of as an observer and to represent the co-defendant, and a lawyer named Jerry McNaul is starting through the deposition. After all the preliminaries of where did you go to school and where did you come up through the company, he asks the first substantive questions of Shorchi Nakasi and the question is, "Mr. Nakasi, who at Alaska Pulp America sets the price of pulp on the world market?" And the answer comes back across the net, "Oh, Mr. McNaul, no one at Alaska Pulp America sets the price. The market sets the price." I can see Rich White's little yellow teeth glinting. You know, he had a very good day. You know, he's got this guy so prepared. McNaul isn't going to lay a glove on him.

Pfister: Rich White in depositions would take walks around the room every once in a while, and if there was a bad answer —

Raven: He'd bounce off the wall.

Pfister: He would literally bang into the wall.

Moore: Careening into the walls. He'd have a document in his hand, and he'd kind of —

Pfister: I thought he was one of the best lawyers I've ever seen.

Raven: He was.

Pfister: Again, we were lucky because we had wonderful adversaries and we also had wonderful lawyers for co-defendants. Very very good lawyers and good people.

Raven: Good judge. I liked her.

Hicke: It sounds like you could screen that for TV.

- Moore: You could write a whole book about the Alaska timber cases. It was so filled with characters out of a John Irving novel.
- Raven: You know, the person the judge really liked though, now I can't come up with his name again, the one who died.
- Pfister: David Johnson.
- Raven: He took care of the plaintiffs' documents, defendants' documents? She was fascinated by him.
- Alsup: He was a chief legal assistant and was really in charge of that whole floor of that hotel. Any time a guest came to the floor, a witness to be prepared, for example, ten minutes after they arrived, an entire room-service thing with trays of cheeses and wine, crudités, everything would come in courtesy of David, and the witnesses loved to come, because they'd be treated like royalty.
- Moore: As he was by the hotel. The hotel had just opened.
- Raven: They all knew him, too.
- Alsup: They knew David. He gave out tips like they — the hotel staff would kill each other to answer one of our calls, because the tips from David were just like phenomenal.
- Moore: David was to the legal assistant world, it might not be an exaggeration to say that, like Bob was to the partnership. He was this legendary figure. There was never a legal assistant like David, before or since.
- Raven: Brosnahan brought him here when Brosnahan came over. I came in early one morning, it must have been six o'clock or something, and I looked in the conference room, and I saw this guy stretched out sleeping on the table. That was David. You know, Jim had him up all night, and he'd take a little nap before Jim got in.
- Moore: Yes. He was really something, and he was just the right — he eventually went to hotel management school, which I think is very interesting. Sometimes I think the firm should send all its legal assistants to hotel management school, because you learn to sort of orchestrate an event where there is no script, and trials are often like that. You've got to suddenly come

up with a table, an OHP, a this, a that, and you've got to use your resourcefulness and make all these things kind of come together. He was very, very good at that. He was just the person to orchestrate the invasion of the Seattle countryside by our troops.

Raven: How did we ever get him away from Jim to spend all that time up there?

Moore: You know, that was a big negotiation. I think one of the diplomacy masters around here, like Kathy or somebody, went to Jim and managed to get him to agree to let David go.

Raven: I don't think he ever saw him again.

Moore: He may not have.

Pfister: Maybe besides this fellow right here, I've never met a human being who can see as much in a stack of documents.

Hicke: Who are you pointing to—Bill?

Pfister: Bill. I'm talking about David Johnson now. I've never met a person who could look at a chronological set of documents, original documents, and recreate not only what happened, really was happening, but also understand what was going on in the minds of the people who were creating those documents. He taught all of us a lot of things. I mentioned this thing to you on this Ogle-Gallo case. This is another case Bob had brought in, where some lawyers were falsely accused of fraud. A fraud and malpractice case. I remember David coming into my office. We also had a statute of limitations issue, and the question was knowledge. How early did plaintiff have knowledge that there was something wrong? David was so excited about a document. I looked at it. He put it in front of me and said, "Look. Look what I found." And I'm reading it. I read it about three times. I said to David, "Help. I think I understand what I'm reading, but why are you so excited about this?" He said, "Look at whom it is addressed to." He had noticed that this plaintiff, for the first time, instead of addressing the letter *Dear Charlie*, had written *Dear Mr. Ogle*. And it was amazing because in the deposition I showed the plaintiff that letter and asked a few questions about its contents. It just fit in the chronology, but before setting the letter aside I said, "By the way, I noticed that you addressed this letter 'Mr. Ogle.' You've known Mr. Ogle for many years, haven't you?" "Yes." And we went back, "In fact every letter we've seen says 'Dear Charlie.' Why did

you address this ‘Mr. Ogle’?” And it was quiet and she started shaking, and she began expressing all the anger that she had at that time, because she felt he had not properly marketed the assets. She admitted she consulted another lawyer at that time. And that was the basis for our winning that case on the statute of limitations. So I mean, those subtleties actually make a big difference.

Raven: What’s that case that you and Kathy had?

Alsup: Kalmanovitz.

Raven: Kalmanovitz. Now what was that?

Alsup: It was in that same time period. It was in the seventies. I saw it in your book here.

Raven: Oh, was it in the book?

Alsup: It was. I did a little write-up for you, so give me a moment—it was the Falstaff<sup>22</sup> case. I thought I saw it in here. It was in the 1970s. We had Judge Poole.

Hicke: Cecil Poole we’re talking about?

Alsup: Cecil Poole was, here it is, number ten. *Falstaff v. New York Life*, and this is another case that I remember plainly for the same reasons you two remember the timber case so well — the characters involved. There was a guy named Paul Kalmanovitz. Mister Paul. He was a Russian immigrant. He came to the U.S. and worked in Hollywood as a chauffeur for many years, then bought some small beer companies in Southern California and built on that. By the time we roll around to 1978 he had acquired Falstaff, which was a big brand name that had gone into bankruptcy or fallen onto very hard times. So Kalmanovitz bought the company and then tried to get an even price. He got a great price, but he tried to get an even better price by suing the major lenders to the company, to Falstaff. One of them was New York Life. There were others. He accused them of a price-fixing scheme whereby all that had really happened was in order to give the lenders and then the company a chance to survive; the lenders got together and said, “We won’t foreclose. Let’s all agree we won’t foreclose and give the

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<sup>22</sup> *Falstaff Brewing Corporation v. New York Life Insurance Company* (513 F.Supp. 289) (1978).

company a chance. And none of us will go in and try to get a preferential deal with the company.” Kalmanovitz hired Joe Alioto. He was the first of eleven lawyers in that case, and Alioto was actually number one and number ten. He came back into the case. Kalmanovitz fired so many lawyers. So Kalmanovitz’s theory was that this was a price-fixing scheme, not unilateral action, etc., etc. So he filed this suit, and it was all multi-district, and then he had a parallel securities case going on. So I spent a lot of time working on that case.

Hicke: Which side were we on, now?

Alsup: We were on the defense side, defending New York Life and—

Raven: Who worked on it for Kalmanovitz? Was it Blecher?

Alsup: No.

Moore: Blecher was out on his own by then. It wasn’t him.

Alsup: Yes, he was out on his own by then, and I’m trying to remember who—

Raven: Was it one of his sons, maybe?

Alsup: I think it was Larry.

Hicke: It might be under number 10 [indicating the binder on the table].

Alsup: I remember Joe Alioto himself showing up in court and arguing. Then he went through a series of other lawyers. By the time this thing came—I remember Dick Archer, who actually was the one who argued when we won that thing on summary judgment.

Raven: Oh, is that right? I’d forgotten about that.

Alsup: I argued this in court. My name might be in here somewhere. There it is. And there is Bob. And Sullivan, Jones. Dick Archer, was the one who argued it. He was the 11th lawyer for plaintiff.

[End Tape 11, Side B]

[Begin Tape 12, Side A]

Hicke: We were just talking about Dick Archer, who had left.

- Alsup: Dick Archer left Morrison in 1970, roughly.
- Hicke: He was with another firm?
- Alsup: Yes. He had his own firm, and by eight years later he was the 11th lawyer for Kalmanovitz. Kalmanovitz would—he was what we would call a—some people would say he was a vexatious litigant, because he had brought so many lawsuits. And once had been certified in the state courts, I believe, as a “vexatious litigant.”
- Moore: Which isn’t easy to accomplish.
- Raven: I assume not.
- Moore: It takes a lot to get certified.
- Alsup: He professed to love the courts.
- Moore: And lawyers!
- Alsup: And he once proposed, before his death, and he died about 15 years ago—
- Raven: He had a lot of money, as I recall.
- Alsup: Yes, he had a lot of money. He said he was going to build on Alcatraz Island the equivalent of the Statue of Liberty, except it would be justice holding the scales, and that was going to be his contribution, because he had used the courts so much himself. He was quite a tough adversary, and we once even had to, when we were taking his deposition, we had to get the court to order him to behave. In fact the magistrate judge ordered the deposition to proceed in court. So I was in court deposing Kalmanovitz, because he would misbehave so much after each answer and question, and then he accused me of giving him a heart attack, and he would slump into the chair in the courtroom and say, “My heart! My heart! Is Alsup trying to kill me?” He would demand, and he would speak in broken English. He was a lovable character. Kalmanovitz was a lovable character, but he was a hard adversary.

But anyway, eventually Judge Poole allowed a summary judgment, and I remember Bob and I went out there. We thought we would have about 30 minutes at most to argue this case which, on a summary judgment, is about

all you ever get. Judge Poole allowed us to keep going all afternoon and then he said to come back the next day. We went back the next day. We went all of that day, and we went through the entire set of documents that were the basis of it. And in retrospect, I can see what happened. What happened was that Mr. Kalmanovitz's reputation had preceded him and Judge Poole was very suspicious of this case, and so he wanted to understand, and then he granted our motion and the case was over. And that's what—1978—

Raven: It seems that Kathy Fisher did a lot of work on that case.

Alsup: We did. Kathy and I worked a lot on the deposition. That was one of the first big cases she was in. She was a very young associate at that time.

Moore: Ron Carr worked on that case some too, did he?

Alsup: Ron Carr—there's a funny story there.

Raven: How did we get that case?

Alsup: I don't know. Bob would come to you—it was just one of those things—where you came down and said, "Would you work on it?" and I did.

Moore: "Should call this guy and get us a continuance—"

Raven: I'm sure I said that.

Alsup: Bob's *modus operandi*, he was so busy bringing in one case after the other, that he would give the file to someone to get started on. And then, you know, that person would just run with the case until the client insisted that Bob come back into it for some reason. So Bob was very good about giving a lot of us excellent experience.

Pfister: It's amazing how the branches went off like that.

Moore: What was amazing to a lot of us was the trust. I mean, you'd come in, and he'd give you this case, be working on it, and if you're pretty young, you'd realize after a while, and the brief would get reviewed by him, maybe with a rather light hand. He wouldn't get in and kind of tear it apart.

Raven: I'm a quick reader.

- Moore: And you're thinking, now, you know, I've read these cases, he hasn't, I'm working up these arguments, he hasn't. I've looked at these documents, and he's trusting me, and there is twenty years of reputational capital on the line here. Because you could see these cases coming in the door. Bob had acquired kind of a brand-name recognition. Antitrust on the West Coast, it's Raven, and that's it. You know? End of story. So these clients would come parading in, and Bob would trust us to care for that precious reputational asset. And you would die before you'd do anything to harm it. But it was quite a degree of trust.
- Alsup: It really is true that Bob would take these draft briefs that could be 25, 30, 50 pages long, and whereas other people around here might just—like all three of us would probably edit it to death. Bob would look at it and have about six changes, and they would be small, and he would come to you, and he'd say to you, "I think our judge was in another case about five years ago, and they kind of got burned by the Court of Appeals. I think you better be a little more sensitive on this point." There was always some "how a judge is going to react" on something, some subtlety that was completely—we would be oblivious to. It would never be "the ABC case doesn't really mean this." He just trusted us completely on that.
- Pfister: It also wasn't just antitrust. Because the first case I got involved in was a securities case. It was even before the timber cases. Came in the very first day I was in the office—Red Emerson, this was *Mossi v. Sierra Pacific Industries*. This was a case where a very, very fine firm in town had handled this securities litigation for Red Emerson for about three years.
- Raven: Who did it?
- Pfister: It was Heller [Heller Ehrman White & McAuliffe], it was Steve Bomse.
- Raven: Oh, that's right.
- Pfister: I believe he did a great job on that case, in retrospect. He did a terrific job on that case. But, if you recall, George Blackstone, the corporate lawyer at Heller, Ehrman.
- Raven: He kept all the papers in his room.
- Pfister: He'd also been promising things to Red Emerson that I don't think any litigator could have delivered on.

- Raven: He insisted on having all the files in his room.
- Pfister: But anyway, we get this case and—
- Hicke: You got it from Steve?
- Pfister: Well, no. Emerson fired Heller, Ehrman. It was a little sensitive. Emerson said, “I want Bob Raven, because I don’t think that we’re getting results on this case that is threatening every asset that I have.” Emerson had a big lumber company and timber assets up in the Arcata and Eureka [California] area, and the only reason that I’m mentioning this is that it goes to Preston’s point about trust and the combination of pride and fear it generates in all of us.
- Raven: Who else worked on that case?
- Pfister: I think on that one I pretty much—
- Raven: Didn’t someone go to China or Japan on it?
- Pfister: No, that one didn’t involve Japan, there were other Redwood cases that involved Japan.
- Moore: The Chip cases.
- Raven: Gordy, and also who was the guy?
- Moore: Gary Rinck.
- Raven: Yes, but there is still another one, Ralph Alldredge. I went to him and told him, “Stick for another six months, and you’ll be a partner. And then you can go out if you wish.”
- Pfister: There are two points on this that I remember so clearly: one of them was that we ended up getting a very good result for Red Emerson. We won a summary judgment motion that none of the co-defendants represented by the Orrick firm and Pillsbury and Brobeck believed was possible.
- Raven: He even got used to your beard.
- Pfister: Well, that’s the second point I wanted to make. We had just won this case after a year of hard-fought litigation—and it was another situation where the

client says, “What? The judge threw it out completely? We won the case?” He then went to Bob, and he was very complimentary about how we had handled the case and the result. But he also joked, “Bob, Peter did a great job—but couldn’t you still talk him into shaving off that beard?” When Bob told me this, I learned for the first time that when Bob first got me into the case and introduced me to Red Emerson, Red didn’t want to have anything to do with me. I was a young lawyer with a beard and long hair, and Red was a fairly conservative person. I didn’t look like the lawyer he was hiring, and Bob said, “Don’t worry about it.”

Moore: Trust me.

Pfister: Trust me. And then on the motion for summary judgment, I remember Dennis Bromley, who was a partner at Pillsbury, said they believed that there was no way we were going to win this summary motion. And he said, “Now Bob’s going to argue this, isn’t he?” I was a first-year associate. And you, Bob, at one point later, you came down to me and said, “I don’t have time; Peter, you are going to argue this.” You came out with me to the hearing before Judge [Spencer] Williams. I will never forget that, because the judge granted it from the bench, throwing out the entire case. This judge tends to be a fairly decisive person, so if he is going for you, it helps a lot. But Bob did both of those things: he kind of fought to allow us to take control of a case and convince the client to trust us and then gave us responsibility that we didn’t think we should be able to handle. And then, as Preston said, we’d do just about anything not to let him down.

Raven: Spencer Williams, I remember when Mel Goldman first came, we got Mel over here, you know. The first big case we worked on, Mel did all of the really tough stuff on it. He cross-examined this expert on the other side, and the judge told me later after it was all over—This was a jury case, as I recall, a jury came in, we won it. He said, “Goldman?” He said, “I didn’t know anything about him,” but he said, “I soon realized he was one hell of a lawyer.” He said, “He started at the top of that guy by his hair, and he just walked down to the sole of his shoes.” He took his time, but he just demolished him.

Pfister: There were all these critical times in these cases, as much as Bob gave us the responsibility, where Bob came in and did things no one could have accomplished.

Raven: Oh, you're too kind.

Pfister: No, but through a mix of things—I'll give you another example.

Hicke: Yes, let's hear some examples.

Pfister: A San Francisco firm was hit with a very difficult situation, because Judge Orrick felt that the case that that firm brought on behalf of a graphic artist should not have been brought. The firm's client claimed that Lucasfilm, Ltd. had stolen all of his strider figures that show up in this Star Wars trilogy.<sup>23</sup> He was eccentric, to say the least, a very fine artist, but Judge Orrick, in the course of this trial, where Bronson was representing him against Lucasfilm, came to believe that the plaintiff had manufactured all of his own evidence and that it was a fraudulent case. Judge Orrick decided to throw the case out; he excluded the artist's drawings as fraudulent and granted summary judgment. He then said, "I am now inviting Lucasfilm to file a Rule 11 motion for all of their attorney fees—well over a million dollars—against Bronson and its client." John Kecker represented Lucasfilm. Of course, when a very distinguished firm in town has that kind of problem, they call on Bob Raven. We then get the opportunity to deal with these very, very interesting issues of the extent of a lawyer's duty to investigate facts and law before taking a case.

Hicke: You were representing Bronson?

Pfister: We represented the Bronson firm. I believe we had some very good arguments and that the Bronson lawyers had conducted themselves properly. There were difficult questions about the type of hearing that would be held. The types of privileges, whether one would waive privileges. Bronson wanted to appeal the summary judgment ruling. There were conflicts arising from Bronson's need to point fingers at their client to defend their pre-filing investigation, when they wanted to preserve the attorney/client relationship during the appeal. The issues were interesting and very, very difficult. And what we wanted most of all was to see if there wasn't some way that we could mediate this matter. Judge Orrick obviously had, at some point, not only decided against the plaintiff and his case but was angry about it. And I remember, it was in December, we went out, we asked for mediation, we filed a brief suggesting mediation and asked for a meeting

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<sup>23</sup> *Seiler v. Lucasfilm.*

with the judge. We also put a footnote, who was the managing partner at Bronson at the time who is now a federal judge?

Raven: Legge?

Pfister: Legge, Charles Legge, was the managing partner of Bronson at the time, who properly, we believed, approved the representation, so we suggested he would also have to be a witness. Even though he was sitting on the bench at the time, he was going to have to be a witness at any Rule 11 hearing. We went out there with John Keker and another of the Lucasfilm lawyers. I remember coming and not being sure whether Judge Orrick was going to continue to be mad about all of this or what. But Bob, it was like you and the judge were the only people in his chambers. The judge only seemed interested in hearing what you thought was the best way to proceed. It seemed as though he were seeking your judgment and guidance, rather than hearing an advocate for one side. It was the most amazing thing. That sounds a little bit negative about Judge Orrick, but I don't mean that at all.

Raven: I think his old friend, John Austin—

Pfister: But Bob, you just explained why mediation made good sense here. And Judge Orrick was nodding at what you were saying, and responded, "Why I think that's a good idea." He hadn't even looked at Keker, at any other representative of Lucasfilm, or at anybody else in the room. None of them spoke up. The judge so obviously respected Bob, and this seemed only a discussion between Bob and the judge, which nobody dared interrupt. The judge said, "Well now, I usually use John Austin as a mediator." With that, John Keker finally said, smiling, "I'm sorry to interrupt, Judge. Now I can understand Mr. Raven's reasons for mediation, but we are not going to be able to agree to use Mr. Raven's partner as a mediator." But we did get a mediation, and we were able to resolve it, I think, in an appropriate way. None of us could have had that impact, because none of us had that broad respect.

Raven: Was that the one that involved the one across the Bay, too, or was that a different one?

Pfister: That was the other side. That was another interesting one. But I just thought that in so many of these cases, at a critical point the client wanted Bob there. At a critical point, we knew that Bob should be there. And often at a critical point, there was a nuance that none of us thought about. Smart

as we thought we were, talking about legal issues. It made a huge difference. Another aside, because I thought of this a couple of times, the number of branches that come from all of this is amazing. We talk about antitrust cases, he brings in so many of these we have talked about, but then there were grand jury investigations, criminal investigations that we handled. Wickes Lumber Company and others that you brought in and just passed on. Then because of the firm's timber expertise, we represented Sealaska Corp.<sup>24</sup> Kathy Bagdonas and others. And so, in so many of these areas, we not only got the benefit of the involvement in the first case that came to Bob, but there were all these other cases that followed. At some point we started thinking, Well, we're responsible for these. But we never would have come close to having them if we hadn't had that first opportunity. And that goes certainly to the biggest client in this firm, Fujitsu. You may want to talk a little bit about how that came in. But when I think about the broad impact on the firm, of the fact that at a critical time clients wanted a litigator they could really trust in a death battle, they came to Bob. Bob went to Preston and others within the firm, and the fallout from all of that has just been incredible.

### Beginning of Patent Specialization

Moore: Well, actually, I don't know if literally the first—you could go back a step before that in our intellectual property practice, which is all the big fashion now and a huge part of what the firm does now. I don't remember if this was literally our first patent, piece of patent work, probably not.

Hicke: You're talking about Fujitsu?

Moore: No, I'm talking about the Computervision case in 1984. I'd never done a patent case before. That was two years after the federal circuit—what the really sophisticated clients were starting to realize was that the word "litigation" and the phrase, "patent litigation" were as important as the word "patent." And that you really shouldn't have patent lawyers doing patent litigation, you should have litigators doing patent litigation. Patent litigation had been a sleepy boutique practice for decades. The federal circuit changed all that by starting to put some real value in patents, some real teeth in patents. They set out on a conscious mission—and I don't say this

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<sup>24</sup> Arbitration of timber revenue to be allocated to regional corporations under Alaska Native Claims Settlement Act (Public Law 92-203), enacted December 18, 1971.

pejoratively—to increase the standing and respect for patents. They held a lot of patents valid, maybe some of them they shouldn't have, but that created a huge upswing in the value of those assets. Everybody began focusing on that, and that was just really getting rolling in 1984 when James St. Clair called Raven. “Bob, we've got an ox in a ditch out there. We've got this case in front of Judge Orrick, and he is about to enter a \$38 million judgment.” This was back when a quart of milk was still a dollar and a quart was, in fact, almost a quart. That was a lot of money back then, \$38 million, and he was on the verge of entering a judgment. A small patent boutique from Boston tried this case in front of Judge Orrick and had just really gotten the thing into a terrible, terrible corner. And Bob did the usual “circle the wagons,” you know. He assembled this big team of people, and people just started running everywhere. All we really brought to it was generalist skills of being good lawyers. We didn't really know any specialized expertise about patents or anything. But we knew how to make a persuasive argument, how to write, and how to find the evidence. So we went out there in this massive motion to reopen and—.

Raven: God, I don't even remember that. What was the name of it again?

Moore: Computervision against Perkin Elmer,<sup>25</sup> Lyon & Lyon, big firm on the other side in Los Angeles.

Raven: It's very familiar. Who argued for them, for Lyon & Lyon?

Moore: A guy named Bob, huge guy, big, big guy, portly guy, Bob. God, it's so crazy, I can't remember his name. Anyway—.

Raven: You go ahead.

Moore: But we got the record reopened. Orrick granted the motion and reopened it. There was a key document in the case that this patent lawyer from Boston needed to get into evidence in order to reduce the damages. Liability had already been determined long ago. This was the damages phase of the trial. And he had this document that showed that many of the infringing machines that had been sold had been returned. These were very big expensive machines, ran about \$100,000 a pop, back then. These were so-called wafer steppers for aligning the mask on semiconductor chips to etch the surface of

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<sup>25</sup> *Perkin Elmer Corp. v. Computervision Corp.*

the chip. And a bunch of them had been returned, so the sales weren't really what the records would show they were. A number of them would come back, and the damages should have been based on the net sales, not all these returns. Well, he is waving this document, and he didn't have a witness to authenticate the document, he didn't have anybody to get it in. He thought he was just kind of going to hand it to the judge. And, of course, Judge Orrick was the quintessential procedural perfectionist. He wanted everything done perfectly in a very lawyerly way, and he not only wouldn't buy this, he got angry about it. "What are you doing in my courtroom waving this document?" The division of the company that was responsible for all of this had been sold off, and the documents and people were scattered. So we set out to find who wrote this document, and we found this guy in Idaho, and tracked him down and got him to sign an affidavit saying, "I wrote this, and this is what it means, and this is what it's all about." It's a big tall associate named Larry what's-his-name, a big gangly guy who we put on airplanes, Larry Levine. It's that kind of, not so much brilliant as just roll-up-your-sleeves-and-get-down-to-the-basics and do it. But that case became kind of the first credential in the patent work, you know the surgeons have this joke, "watch one, do one, teach one," about serious operations.

Raven: I don't have that case down anyplace, what's the name of it again?

Moore: It's *Perkin Elmer v. Computervision*. It's a reported decision.

Pfister: We called it the Computervision case.

Moore: It's a reported decision because it went up to the Court of Appeals. That enabled us to say we've done one. We've done one. You know the problem of getting your first case in a specialty area? You can get that first case, which then is the credential being used to get the second one. The only thing that got us the first one was that James St. Clair had the good sense to think what we need is the sagacity of a general practice senior trial lawyer in this. He thought of Bob, called Bob, we all got our chance again. What's fallen out of that patent case is pretty unbelievable. I can trace most of the patent cases that I've done, that's quite a few now since 1984, directly to the chance that kind of opened up by virtue of having that one. The next one that came along in 1985 was Ricoh Company. That wasn't a case with Bob although Bob lent a hand in bringing it in the door from the beginning. But

then it kind of built from there but we got our chance with Computervision in 1984.

### Fujitsu Corporation

Hicke: Do you want to talk about Fujitsu a little bit?

Moore: Well, what to say about Fujitsu? It's been kind of an unbelievable—.

Raven: What time period are we talking about. I was trying to figure that out the other day. It's about 1982.

Moore: '85.

Raven: When did I first get over there? I went over there when Dave was ill. He was having his operation.

Moore: '83 was the day of the first settlement. 1983 Settlement Agreement was what all that flowed from.

Raven: Still remember the first time, I went over there by myself, you know. Went to lunch with, the top man there. What's his name?

Moore: [Takuma] Yamamoto [Chairman of the Board, Fujitsu].

Raven: Yamamoto. He said through an interpreter, "Mr. Raven have you ever been in Japan before?" I was just about to say, "Only in the air," and I thought, That's not the right thing to say. I said, "No, I have never been over here." I think it was as early as 1982 when I went over.

Hicke: How did that case come in?

Raven: Well, Dave Nelson had been representing, doing some work for Fujitsu, because of Amdahl.

Moore: Brobeck had been representing Amdahl and had a conflict when Fujitsu ran into this problem. So they turned to Morrison. Carl Leonard and Dave Nelson did a simple little lease for Fujitsu, right at the beginning, and it was kind of a small, not very interesting business client that we did small pieces of work for when this thing hit. And this company was really, really in the swamp.

Hicke: What's this about?

Moore: The Fujitsu/IBM—

Hicke: Yes, but I mean, can you just in a nutshell tell me what the case was about?

Moore: Yes. It was a copyright dispute over operating system software for mainframe computers. IBM had the dominant position in the mainframe market, and the mainframe market was what drove the computer business. There was a thing called the System/370 Architecture that IBM developed in computer architecture for how one organized the functioning of a computer. And it became the de facto industry standard. The way the computer worked, the operating system managed the computer, and various applications and specialized programs would run off the operating system. The operating system ran the hardware and ran the various applications. It's kind of a nerve center, key piece of software. And what Fujitsu was doing was making IBM-compatible computers, and the basic problem was if you—there was a problem called “software lock-in.” Which is that if you've invested a large amount of money in building up a library of application programs and other things in your company, and you switch vendors, without compatibility you would have to recompile and reprogram all those applications to fit the interface structure of the new operating system on your new computer. What Fujitsu did was make a compatible machine, and their pitch to the customer, which was devastating in the market it was so effective, was we can bring a Fujitsu computer in here and unplug your IBM 3090, the big machine that they were selling, and can plug in the Fujitsu computer, your applications will never, ever, even know that you have switched. It will be perfectly compatible. It will be seamless, and by the way, it will be 25 percent cheaper. They were tearing up the market with that. And IBM claimed the right to keep anybody from replicating the interfaces between their operating system and the rest of the things that it needed to relate to.

Hicke: I take it this was a brand-new concept?

Moore: Yes, and so there was this huge fight over, “Can you claim the moon for Queen Elizabeth?” as we would put it. IBM wanted to be the troll under the bridge. You cannot get across here without—and the tribute they demanded if you did replicate it made it not worth the while to do it. They realized that those interfaces were the keys to the kingdom, that if they could keep an

exclusive proprietary ownership of those interfaces, nobody could make a compatible mainframe computer. Copyright law was just coming to terms with the whole problem of the legal protection of software. They went through a dispute which they negotiated into a settlement agreement that was very onerous for Fujitsu. That was the 1983 agreement, and it had an arbitration clause in it. So this was going to go into arbitration, and of course that—the decision to put an arbitration clause in that settlement agreement—turned out to be fateful. It was very, very important, because it meant that this whole thing played itself out not in court, which I think we all felt in retrospect would have been a real disaster for Fujitsu; the difficulty for a Japanese company, with a case of that complexity, to go through the discovery process and have witnesses in court would have been severe. So instead, it went into arbitration, because there was an arbitration clause in the agreement, and after the 1983 settlement which was kind of doomed to failure, it was not going to solve the problems, you could kind of see the seeds of it. In fact, Dave Nelson, who was not involved in the preparation of it, tried to tell Fujitsu at the time, “This is not going to settle this problem, it’s going to come back.” And it did in 1985. IBM unveiled this huge, you know, landing-of-marines-on-the-beach type of assault on Fujitsu with this big accusation that they violated the agreement. They put in a demand for arbitration, and off the thing went into this huge arbitration starting in 1985.

Raven: I’m sure I was over there in ’83.

Moore: Well, the settlement agreement was signed in ’83.

Raven: Yes, well, I think I was over there right after that. Dave went in the hospital for that—but then it kind of—when did Ron Carr get into it, and when did all those—?

Moore: Well, the big final report, the big thing that issued—

Raven: It wasn’t Ron Carr—

Moore: Yes, it was in ’85.

Raven: Did you work with Ron on that, or did he do it?

Moore: No, no, I wasn’t in the case at that point. I didn’t get into it until ’86.

Raven: Yes, Ron Carr, you know, the thing that he put out on our position, and IBM put out theirs, that was just a priceless piece of work.

Moore: It was brilliant.

Raven: He worked late at night, he would work late at night and every day, but it was just a brilliant piece of work. It stood up right through the whole thing, didn't it?

Moore: This was a lawyer who worked with Bob on a great many things, who passed away a few years ago, and was held in great esteem by everybody. Kind of a legendary figure.

Raven: Yes, he was a great lawyer.

Moore: So the thing worked its way on through, and I think it was another place where the key ability to get the trust and confidence of people quickly, you know, was really, really important. Here are these people who are culturally and geographically so far away, and they are looking for somebody who's going to lead them out of this, and Bob was able to kind of get into a relationship with them quickly and, notwithstanding all of the language and cultural barriers and everything else, convey a sense to them. In my hands you're going to get through this. You're going to get through it, it may be tough, the outcome may not be perfect, but you will get through it. There's actually a wonderful Japanese expression for this, and it goes, *o bune ni nota tsumori de ite kudasai*. And it means, "We're a very big boat. Please come on board and don't worry. It won't rock when it goes through the water." In Japanese, you never get to say anything nice about yourself, you always have to put the other person high. This is one of the few things you can say that expresses a kind of a self-confidence. They viewed Bob as that kind of big, safe boat. They were at sea. They were totally at sea. And here was the big boat that was going to get them through it safely. Once we had that confidence—and getting it early with a Japanese client, I can tell you from all the work I've done over there, since I got that opportunity, is very hard. It takes a long time. It takes a very, very long time, especially about something as intrusive as this was. The company was so sensitive and felt shamed that it was involved in this controversy. It had kind of a love-hate relationship with IBM, which it admired as the industry leader, and yet it also was such at odds with.

- Alsup: There's a photograph in the next room of the tree that the company had planted in Bob's honor, that shows the high regard that Fujitsu—
- Hicke: Where is the tree—I see the picture, where is the tree?
- Moore: The tree is in Numasu, Japan, where the software works is. When they gave Bob the tree and planted it, they gave him a ceremony and kind of a plaque with a picture of the tree, and with it was a note that said what the tree was and described it, and then it said that the—the thing that we worked out in this was a new agreement out of the arbitration that would last until 2002. This was in the 1987-1988 timeframe that this got worked out. So 1987 was when the big agreement, the big new agreement came through that created a kind of private regulatory framework for these two companies to resolve their differences, which everybody knew would recur as new products came out. So they acknowledged that, created this agreement until 2002. They did Bob's tree, described the tree, and said, "We planted this tree, it's a very hardy tree, and our hope is that it will grow big enough to shade the entire software works by the year 2000."
- Hicke: Oh how nice. That's great.
- Moore: And that relationship with Fujitsu, to turn back to Peter's point, speaking of trees, about the branches that all this stuff has gone off into, led to our starting to do patent work for Fujitsu. And we've done an unbelievable amount of that, and it's been another chance for another whole generation of lawyers to cut their teeth on the patent work. Fujitsu's battles with Texas Instruments, Fujitsu's battles with Samsung, you know, on and on like that.
- Moore: I need to go get on a conference call.
- Pfister: Want to just come back when you are finished with it?
- Moore: Yes, one thing that you ought to be sure that you don't leave out, since if Computervision didn't make it into the roster, there's one other that's kind of an interesting one, this advice that you gave to the commission on judicial appointments about the Jerry Brown/Mike Curb judicial appointment controversy.
- Pfister: Yes, I can mention that. In fact it is interesting because we've talked about antitrust, and we've talked a little bit about securities—

Raven: Thanks an awful lot, Preston—*[Preston Moore leaves the room.]*

Pfister: —and now, intellectual property and the patent work. But there were so many along the way that were just interesting cases that were very important for the people, and so they came to Bob because of his reputation. And that was one; it was a long time ago, when Jerry Brown was governor. The then lieutenant governor, Mike Curb, decided that the California constitution permitted him, as lieutenant governor, to appoint judges when Jerry Brown was absent from the state, because the California constitution actually says, that the powers of the governor devolve upon the lieutenant governor when the governor is absent from the state.

Raven: That was when Jerry just went over to Nevada, didn't he?

Pfister: It was Curb's position that if the governor got in an airplane and crossed the border, the lieutenant governor, Curb, could appoint a judge. He was written up in the newspapers a lot, and obviously, when the California constitution was written, if you were on a horse and you crossed the border, you were absent from the state, and you couldn't perform the functions of the governor. At that time, the Committee on Judicial Appointments, it was a committee comprised of the Chief Justice of the California Supreme Court, then Rose Bird, the chief presiding justice of the Court of Appeal, California Court of Appeal, I think it was Armand Arabian—

Raven: It was Arabian, I believe, yes—

Pfister: And then the attorney general, who was [George] Deukmejian at the time.

Raven: Deukmejian—all three of them were running—weren't you with me when we—

Pfister: Yes, it was the Council on Judicial Appointments. Bob was called upon by the Council of Judicial Appointments to do an analysis of the California constitution.

Raven: I think it was Rose Bird's idea.

Pfister: I think it was Rose Bird's idea—just to see whether Mike Curb could be appointing judges when Jerry Brown flew out of state, as he was running for president at that time—maybe that was earlier than that. But it was very, very interesting. I'm not even sure how it is—

- Raven: Well, you know who argued the thing. When I went over to Saudi Arabia, I had to go over to Saudi Arabia during that time, and the guy that's in trouble right now—who was Brown's right-hand man?
- Alsup: Tony Kline—
- Raven: Tony Kline! Remember that? He argued it when I was in Saudi Arabia and lost it.
- Pfister: And lost it. I think it was just one of these unusual situations where you have a governor who has a lieutenant governor who's from a different party and who is therefore—
- Raven: That wasn't the issue that he lost—he lost something else from Tony—
- Pfister: I'd have to look back, we just gave them some general analysis of the constitutional provision and how it should be interpreted.
- Raven: I remember—do you remember Deukmejian, I think it was Deukmejian who said, “Well, Mr. Raven, it was nice to have you here and all that, but ...” he put it in a nice way, but he didn't really want me representing him or the other guy. Remember I said, “Well, that's why I'll just represent the Chief, and you can be—” remember that?
- Pfister: Vaguely.
- Hicke: Was this a case that was argued or something?
- Pfister: No, it was basically advising, we were just called upon to advise the council.
- Raven: But there was going to be a case.
- Pfister: A case was going to emerge from that.
- Raven: A case did emerge, and by that time I was in Saudi Arabia, we were opening an office there, and the client argued it and lost in the Supreme Court here.
- Alsup: Another interesting case in that era was the BART case.
- Raven: Oh the BART case, yes.

Alsup: That was not antitrust. That was not any of those areas we've talked about. It was—the BART system was just coming online after ten years of construction.

Raven: But it didn't work.

Alsup: It didn't work. The trains would roll along at 70 miles an hour, and one of those doors would open at 70 miles an hour. BART selected Bob and this firm to represent it.

Raven: The Board of Directors.

### Raven's Reputation

Alsup: Some other firms were looked at, but we got it—and this all leads me to the point that I think has been made here, and that is, what is it about Bob that has allowed him to attract all of this work? Because if you look over the history of the City, there have been other firms, I could name some names, but some of them have made a reputation for being scorched-earth, very tough. You hire that firm, you're going to get the meanest litigator, who will go right up to the ethics line and probably cross it a couple of times, and make sure it costs the other side lots of money, too—and they make it—and there are a lot of clients out there who like that kind of lawyer, and sometimes it works. Bob's formula is just being himself, really. It was enormous respect by the courts and judges. Bob is a good trial lawyer, he made his name in those theater cases in the 1950s. But it wasn't because he was a good trial lawyer necessarily; he was known by the judges as a lawyer with unbeatable integrity, backed up by some young lawyers who were good. But it was Bob's integrity, and if he said I'm going to take this case on, and he goes into court and presents the arguments, everybody knows that Bob has made a fair presentation. He never overreached, he never tried to play the hand for more than it was really worth. Once, in the newspapers, they said he had no known enemies. No known enemies, and I said, well, maybe he has some unknown ones. No known enemies—and it really was true, on both sides of the case—

Raven: You guys aren't supposed to be talking about me. You are supposed to be talking about the cases here.

Alsup: Bob had that reputation. In doing the cases here, we had all kinds of questions that would come up that involved ethics, and Bob would always take the high road, he would never take the low road.

Raven: That's because we had Marshall Small at the—

Alsup: And to this day, as long as I've been here, that's been Bob's reputation. Now, the judges like that, the judges respect it. There's a whole world of people out there who litigated with him, against Bob, who know that he has that strength, and that he has built this firm on that reputation. It meant a lot to those of us who have been here to have practiced with somebody who has that kind of character.

Pfister: Just one thing that I'm going to take from that. I agree with everything Bill has said there—and each of us has had an experience working with Bob on a case where he has just called a shot, he has made a decision on drawing those lines. I can think of two times where Bob said to me, “Well, if the client is not cooperating in a way that we think we can ethically continue in the case, there's only one choice, we withdraw, we fire clients.” I can think of one particular situation when I took that step. I called, and I said, “Based on what I've seen”—this was a situation involving possible alteration of documents that needed to be produced to the other side—and I said, “We thought about it and we can no longer represent you.” The result was a scramble by the client to try to undo what they had done wrong and to promise that they would behave ethically. And we were able to continue to represent them, which we did without further problem. But we had decided that we were going to fire them. I won't mention the particular case right now, but it had a tremendous impact on me.

The other point is ancillary to what Bill is saying, because people don't just come to a lawyer who has no known enemies, or even who enjoys great respect for his integrity. There is something also about Bob that is tenacious as can be in litigation. I'm thinking about times when, Bob, you would encourage filing motions because you believed that they made sense even when counsel for all the other co-defendants in these multi-party, multi-district cases thought, “No way! These motions have been denied. Doesn't he know that these motions have been denied?” You believed that they were right, we've got to file them. I'm thinking now of a whole area of the law during that time on fraudulent concealment allegations. This was limiting the time period of exposure on antitrust cases to a four-year period, and Bob,

in one case after another, if there was good reason for it, and often there was, he would file a motion to dismiss these allegations of fraudulent concealment that otherwise allowed the plaintiffs to expand the damage period maybe two or three times what they're entitled to under the statute. Many times they had no claim to fraud or concealment, and one after another of these cases, the fine paper litigation, the asphalt cases, the timber cases, we limited damages right at the outset to four years, and it made a tremendous difference. And then all of the other lawyers started doing it. I have a letter in my file, I think, somewhere, somebody from Pillsbury or Brobeck wrote you saying that the defense bar should thank you for the work you've done in that area, because even though it had been unsuccessful in the past, Bob thought it was right, and so we're going to file it, and we're going to argue it.

He also is—I'm sorry, Bob, this is a little disrespectful—but he's like a kid in litigation. And part of it is, the joy for us, is that he shares it with us. It's all of us when we win. But you may have seen it, too. I've heard it so many times when Bob is excited about some issue in a case or some result in a case, he almost giggles, he goes, *hee, hee*. He likes it, he likes the battle. And so people who are with him on it, feel he's in it—not just in it to get the result because he thinks we're right and we're going to get there, but that it is going to be fun along the way. I think that's another thing that very few lawyers have, and it's very important. Not more important than the ethics, not more important than the character, but, boy, it makes a huge difference. When a person is called and asks, whom would you recommend to handle this case? It's Bob Raven, because he has the reputation, he has the character, but it is also because he's tough and he will fight for you—not overfight—he'll get a right result, and it's going to be fun along the way. It sounds strange, but he is a person who shows respect for all the participants, including the clients. And when I think of these cases that we've talked about today and the opportunities, it's really amazing. I've just jotted down how these cases come in.

I was thinking about the *Barney Miller* case. This doesn't have to do with any of these subject matters we're talking about. This was a situation where the co-creator of the Barney Miller TV series, a guy named Danny Arnold, had a big dispute with Columbia Pictures Television about who gets the money from the syndication rights. To my surprise, at that time Barney Miller was second in its syndication value to M\*A\*S\*H. Huge. I don't know if you ever saw that program. And there again, when you talk about

opportunities, it was fascinating. It was fascinating to be part of that industry. It was fascinating to meet Danny Arnold, who confessed that each one of the characters in that sitcom was one part of his personality that he was trying to understand. He was kind of crazy. A great guy. It was Pierce O'Donnell who called you into that. Pierce is a very strong lawyer down in Los Angeles who called around to a number of people who knew of you and it came to you.

Raven: I guess it did come from Pierce, didn't it? I'd forgotten about that. Who was the judge we argued in front of when we argued the Barney Miller thing?

Pfister: Judge [Mariana R.] Pfaelzer. We had a big argument down there in district court and Danny Arnold's limousine, which dropped us off at the court, spent 2½ hours just circling the court. I guess if you make money on syndication rights, you can have your limousine, instead of parking, just go round and round the block for three hours while you're doing that. But that was an interesting case. And it was fun.

Raven: I'd forgotten about that case too. I wonder if we've got any records on that case. We must have, eh?

Pfister: See, that's another one. In so many of these cases we either won on a summary disposition or we got it settled.

Alsup: I'm going to step out, too. How much longer will you be?

Hicke: I have no idea.

### Ron Carr

Pfister: What I was going to do, I just wanted to click off a couple of other cases.

Raven: We have a lot of food here [*pointing to a breakfast cart*].

Alsup: I had a bagel before. Thanks. In the Kalmanovitz case—this is a story about Ron Carr—and it is the first time he ever did a deposition, the first time he ever put a witness on the stand, and the only time, and his first argument in court, all rolled into one event.

Raven: In which case?

Alsup: It was the Kalmanovitz case. What had happened was Ron was new, and he was a Supreme Court clerk. He'd worked in the Justice Department. He was maybe the smartest person who ever came here, and maybe the nicest as well. He enjoyed the cerebral part of the practice of law. There was a group of us who said, "You know, you really should get out and do some depositions and fight it out." I think Bob eventually agreed that Ron should get some of that kind of experience. So he said, "Bill, can we get Ron to work on this case with Kalmanovitz?" because Kalmanovitz was such a tough character and Bob thought he could get some real experience. I said, "Sure." So we set Ron up to take a deposition. The deposition was really designed to learn where the documents were located, because Kalmanovitz had been refusing to produce documents, and his lawyers, and it was very hard to get any real evidence out of him. Ron went into the deposition room, and he came out at the first break, and he said, "Bill, there's a problem." I said, "What's the problem?" And Ron said, "Every question that I ask of the witness, Kalmanovitz's lawyer is telling the witness not to answer, that it's privileged, not to answer." I said that the location and existence of documents, it's a classic case, there is no privilege for that. The name of the document, the date, who wrote it. You need to understand that information in order to know whether the document is privileged. So you are entitled to that information. He said, "I think I'm asking those questions, Bill, but they are just not answering. They are refusing to answer."

So during that break we wrote up a list of questions that I thought would be just bullet-proof. Ron said, "I've already asked these kinds of questions." I said, "Go do it again, and then if they refuse to answer, announce on the record that you are taking them out to court. In the meantime, I'll call out to court, and we'll get it set up so we can get an immediate ruling from the court." So Ron goes back into the deposition, and I get on the telephone, and I try to see if there is some judge up there who can hear us. Ron comes back out after about thirty minutes and says, "I went through all those questions. They are still refusing to answer." So then, meanwhile I had it set up that we go to court. Ron goes back into the deposition room and announces to the assembled people that we're now going to court. We're adjourning this deposition. The judge will hear us now. The other side was taken aback, "Wow, what's going on?" So we get the court reporter, and Ron and I and the court reporter get into one cab, and we go up, and it turns out that it is Judge Orrick who is going to hear this, because he is the general duty judge that day. Judge Orrick you've already heard about. He's a stickler for procedure.

Hicke: We've done a long oral history with him.

Alsup: On the way out I say to Ron, "Here is what you do. First, you've got to stand up and explain the basic problem. Then you will call to the witness stand the court reporter, and ask the court reporter to read from his notes." We'd been telling the court reporter on the way out, start here; stop there; start here; stop there. The court reporter, whose name was Tom Wilson, I've used a lot, and he was excellent. He was ready to go. So we get out to the court, and the judge comes out. He knows nothing about the case. He says, "What's the problem?" Ron stands up and says, "We have this discovery issue. We're taking this deposition, and the other side is refusing to answer any questions on grounds of attorney-client privilege, and we're asking just for the location and identity of documents. That's not privileged, and I'd like to call to the stand the court reporter to read the representative samples." Orrick lets us do that. The court reporter goes to the stand, is put under oath, and Ron says, "Were you the court reporter (yes) and where have you been (at Morrison & Foerster) and have you been taking down the deposition (yes) and have you got some passages there ready to read to the court (yes). Would you please read them?" So he starts reading them, and it's, "What was the date of that document? Who prepared it?" Every one is, "Instruct you not to answer. Don't answer that question. Refuse to answer." etc. Now when you are in that kind of a situation and you are sitting in the courtroom, you have no real idea how this is going down with the judge. I was prepared for the judge to just throw us out the courtroom and say, you know, you guys—

Raven: —work it out.

Alsup: —don't bother me.

[End Tape 12, Side B]

[Begin Tape 13, Side A]

Alsup: I knew we were right, but I was expecting that the judge might jump on us and say, "You know, you're big guys, this is just big case litigation run amuck. Why do you need those documents, anyway?" Or, "Go to the magistrate." Or, "Why didn't you work this out? Why are you running to court without ...?" Well, anyway, after hearing about three minutes of the court reporter's Q&A, Orrick raises his hands and waves, cuts the air with his arms, and he says, "Stop, I've heard enough." And I thought, we're

either going to get it, or the other side is going to get it. I don't know, but somebody's going to get electrocuted. There's poor Ron standing at the lector, because this is a long answer, and I'm thinking, I just hope poor Ron doesn't get electrocuted on his first argument ever in court.

And the judge then turned to the other side and made the lawyer stand up, and he proceeded to chew that lawyer out, up and down, for improper instructions not to answer questions. The judge gave a speech about how privileges are so abused in the United States, and the civil law countries they have the right idea, there is no privilege, and then he says, "I want you to go back to that deposition room, and if you have to be there until midnight tonight, you're going answer every one of those questions." Then he got up and walked off the bench. So then we went back, and then Ron was there until 11:00 o'clock that night asking them. They did not object to a single question; they answered everything. That lawyer was so afraid that he was going to be put in jail.

Raven: Who was the lawyer?

Alsup: It was like, number seven in the eleven lawyers that he had in that case. The lawyer just didn't know what he was doing, and he was so afraid that he would goof that he was instructing *not to answer* on everything. He didn't want to displease Kalmanovitz. But now it was—so Ron Carr had his first deposition, his first argument in court, and his first witness on the stand, and all in one day, and it was a total, complete victory.

Raven: He must have thought, well, that's pretty easy.

Pfister: He decided never to do it again.

Alsup: He never did it again. So that's my story. I have to run. *[Bill Alsup leaves the room.]*

Pfister: That was one where your, is it college roommate, remember the huge case in Los Angeles you brought in with Rich Fybel?

Raven: Oh yes, that was Bill Miller who sent that out to us.

Pfister: Well, you know, but for Bill Miller and his contact with you, it's a piece of litigation we would not have had that was probably a year and a half of activity in our Los Angeles office.

Raven: That was a big thing. Yes.

Hicke: Federated—

Pfister: Federated Stores bankruptcy, and I'm not sure exactly whom we represented—but Rich Fybel was the lead lawyer once Bob passed it off.

Raven: Yes, that was a big one—

### Other Matters

Pfister: The Harris Corporation came to you. I mean that was a huge patent case, Harris and I forget—but this was another Los Angeles case—

Raven: You worked on the Harris—

Pfister: I didn't work on Harris—

Raven: Who worked on the Harris case?

Pfister: Haley?

Raven: Haley [Fromholz] did.

Pfister: Haley and Adrian Pruetz. They are in Los Angeles. You see, it's not just in San Francisco.

Raven: Oh, that's right. I had that case when I was down in LA.

Pfister: You have to understand that Bob spread all this among us in San Francisco, but in these other offices, they have their experiences with Bob. I'm not sure whether at some point you'll be talking to Rich Fybel in Los Angeles—

Raven: I spent two years in Los Angeles.

Pfister: I'm just trying to think if there are some others who followed—I mean when I talk about the bank cases, didn't you get involved with Ron on the interlocking directorate case too?

Raven: Yes.

Pfister: Which was a Section 8 Clayton Act case?

Raven: Yes.

Pfister: Where again, the banks were accused by the government of having interlocking directorates, and you dealt with that. There was another redwood case that I remember you worked on with either Jim Bennett or Gordy Erspamer.

Raven: That was for the big company from Wisconsin, I got to know them through a big firm in Chicago.

Pfister: Through Sidley & Austin.

Raven: Yes, Sidley & Austin.

Pfister: Because Sidley & Austin was another group of lawyers who always referred things to Bob.

Raven: Well, we also had the big case you know, that's when I first met them, they had that tremendous trial lawyer from—

Pfister: Arcata?

Raven: No—What was the company that used to be out here? You come down the freeway, come up from the Peninsula? We had a huge—they came out here, well, they had one of their great lawyers.

Hicke: Well, if we have these cases and opinions, we can get the names, right?

Pfister: But not all of them. The most interesting thing is that many of the cases, for example, this Lucasfilm matter for the Bronson firm, there's no opinion—in fact, a lot of the cases end up not reported. The representation of special committees wouldn't necessarily result in an opinion. Many of the cases where you win on an early motion and then settle; it doesn't have a published opinion, but they could be very hard litigated matters. But I can check with Bennett to find out on that redwood case, because I remember that took a lot of time.

Raven: Now, was that the case that Bennett tried for me down in front of our old buddy the judge that used to be up here in this office?

Pfister: One of the things that amazes me from working with Bob and working as the Chairman of the Litigation Department, and later: I had a sense of how

much was filtering through. But it staggers me, even as I'm sitting here now, because I know when I think about what Penny Prevolos is doing, what Jim Bennett has done in the past on matters, things that—Bob, you worked with Jim Brosnahan on a case that now I can't remember exactly—that was another special committee—

Raven: Yes, I'm trying to think of that too—was that soon after we brought him here, I think—

Hicke: Well, how about if I—I'll send this list to you two, and Bill, and whoever else we can gather in, and maybe we'll even add other notes—

Pfister: Right—

Raven: You know, do you keep track of all yours—do you have something that shows all the cases you've been in?

Pfister: Oh, I showed you that one list—Yes, and I think I've covered most of the ones that you and I worked on, although there's some smaller ones that you know, Eclectic<sup>26</sup> for example, which was—

Hicke: Eclectic?

Pfister: It was just a guy who did private prisons, and it was in a dispute, a federal case where he had sold his company, or he had almost sold his company and then got a better offer from someone else, so he was sued by the frustrated purchaser.

Raven: Who was the judge on that? Was it federal court?

Pfister: It was in Los Angeles, and we won it on a motion to dismiss, Jordan Eth and I worked on it, but it came to you, and then you just passed it on to us—again no opinion on that, but it was—

Hicke: Is Eclectic the name of the case?

Pfister: Of the client—

Hicke: Okay, the client.

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<sup>26</sup> *Planned Facilities Corp. v. Eclectic Communications, Inc.*

- Pfister: Oh, and I was thinking Kathy Fisher—didn't Kathy and Gordy and you work for years on a huge Pac Man video game case?
- Raven: That's when we represented the guy from Brobeck, yes, one of the old timers from Brobeck down there—
- Pfister: I can't remember the name of the case, but I just jotted this down this morning before coming here—
- Raven: It was on the steam fields in Northern California—
- Pfister: Oh, now that's a different one—that's another one—
- Hicke: Steam fields?
- Pfister: We sued Sonoma County. That's right, we sued Sonoma County, because Sonoma County had decided that it was going to tax geothermal steam, it was going to put a sales tax on geothermal steam. They have the geysers up there, and we represented geothermal steam producers, who said, "Wait a minute, this shouldn't be taxed."
- Raven: But you know, we got one of the very, very senior people there at Brobeck.
- Pfister: And Brobeck sent that to you?
- Raven: Well, he was involved—he owned some of the company.
- Pfister: Kathy Bagdonas worked on that one for years with you.
- Raven: Well, she did a lot of work.
- Pfister: She did a lot of work on that. Then we got some legislation, and the whole thing worked out well. There was an interesting guy, Derrick something—Derrick Simmons was the lawyer for Sonoma County at the time, tall guy, pretty impressive lawyer. But I was not talking about that tax case, I was talking about a case where we actually went out and seized video game machines, and at the time—
- Raven: Oh, yes. Isn't that the one we had over in Nevada, though?

- Pfister: Yes, I think Nevada was involved in it. Gordy and Kathy were involved in that—and I can't for the life of me remember the name of the client. I can get that from Kathy.
- Raven: Well, Peter, we're indebted to you. You've all been very so helpful.
- Hicke: Oh this was great—wonderful—these examples and stories and so forth are really helpful.
- Pfister: Each one of the cases has so many of these stories. That's why maybe taping one more session maybe with Kathy involved would be helpful.
- Hicke: Oh, I'll do as many as you can spare the time for—the more the better from my point of view.
- Raven: That case that Brosnahan and I had with the firm in Chicago, that was a big one, big, big case, big multi-district case we argued, and I argued it down in LA, we should have won that, everyone thought.
- Pfister: Was this one that grew out of the S&L crisis? Because I think that there was a savings and loan issue that—that's another one I should check with Jim on.
- Raven: When I first got familiar with the firm in Chicago—Sidley & Austin—and I did a lot of work with them after that.
- Hicke: I don't think we covered BART either, did we?
- Pfister: Well, we didn't cover what it was about and where it went. Steve Dunham was really the lead young partner at that time on it.
- Raven: Yes—I had him argue one of the most important motions.
- Pfister: It was a venue issue.
- Raven: Steve was sweeping them off—
- Pfister: It was basically against Westinghouse, and all the contractors. And BART, of course, was in a precarious spot, and so they interviewed every firm, and they came to Bob. I remember that, because I was trying at the time to decide which firm to come to, and as I'm interviewing, I'm finding that this was this hot litigation shop that was having all these interesting cases.

- Raven: Well, we represented BART—they put it out, and we won out.
- Hicke: Was it a contest to get the client?
- Pfister: Oh, to get the Bay Area Rapid Transit System—they went and talked to about every firm around.
- Raven: That was a big law suit.
- Pfister: Oh, yes. It went for years—some of these went for years, even the ones that don't necessarily result in published opinions can go for years. Didn't Palmer Madden work on that too?
- Raven: Palmer Madden worked that, yes. I remember Palmer Madden so well, because I was picking him up to go over there to—oh what's the city over there—you know they sent us over to that other county—
- Pfister: Oh that's right—they tried to change venue—
- Raven: In fact, the Supreme Court did that to us—
- Pfister: And that is a published opinion.
- Raven: We had a big antitrust one too that Jim Brosnahan and I had together, along with Sidley & Austin, a multi-district court and all of that.
- Pfister: I may just stop by Jim's office and just get his list. And then I'll just pass that on. I'll just include that on the list, we'll just annotate our lists.
- Raven: You know, I'm just overwhelmed by this, though. It's the first time in nearly 50 years, I guess—but there was so much—
- Hicke: It's overwhelming to know that you did so much.
- Pfister: But the thing that is unusual about it, and I think that you can go to the very, very top trial lawyers, and not have so much that branches out—it is interesting when I think about the number and variety of cases, it's true, in some ways, it's your appearance, Bob. You come into a room, and you were the quintessential, you know, strong lawyer with silver hair, that just gives a sense that you—
- Raven: Black hair.

- Pfister: You know, even when you had the silver hair. You always listened and showed respect. You were able to talk to the top board of directors at the top banks and walk out of there having them feel that they were in good hands. And yet, when you were in Ketchikan, Alaska, you were able to talk with respect to the loggers. They liked you. And the timber operators didn't feel as though you were talking down to them. And so you were able to communicate across a broad range of clients, that's one thing. But the other thing was that Bob enjoyed doing the cases, and got into them, he didn't just pass them off, he got into them. He also took the courageous step of insisting in a way, that clients rely on what he felt he could rely on, and it wasn't just a—I mean, it was a silly example with the beard, because a much more significant example is with the women in the firm, and that's why it would be important to have Kathy here and Penny Preovolos.
- Raven: Have you met Penny? Oh she's great.
- Hicke: No. I haven't.
- Raven: She has done a lot of work with me. She worked for about ten years with me.
- Pfister: But do you remember Penny at your retirement function?
- Raven: You know that case is still going? Steve Dunham told us that case is still going over in Denver.
- Pfister: Oh yes, Bando—a huge antitrust case—that's four years—this is Steve Dunham and Penny Preovolos—
- Raven: Was about 10 or 15 years—
- Pfister: Antitrust case. We represent Bando, which is the largest manufacturer of a kind of fan belt type bands, rubber bands in a long-standing dispute about the technology and antitrust.
- Raven: In fact, Steve Dunham just told me the other day that they are starting over. They had settled!
- Pfister: Steve was saying he's writing briefs now.

Hicke: Another thing that you've been speaking to a lot which I really feel pretty strongly about is that Morrison & Foerster has a very strong corporate culture. I think it is unique, and I think it must be people like Bob who have handed that down.

Pfister: Absolutely.

Raven: A very strong litigation culture.

Pfister: No. It goes deeper than that if you think —

Hicke: I'm thinking about the people who work here, and, you know, the feeling about being part of Morrison.

Pfister: Part of it is the fun. We start talking about stories. Preston and I can get downright ridiculous about some of the things that—We just had some great experiences together working. When you are in litigation, it is a little bit like a war, so you lean on people, and you create relationships that are lasting. But who was at the top and how they behave makes all the difference, and I'll tell you it's not just Bob. Marshall Small was like that in a way too. But Bob was always leading the way.

Raven: More in terms—

Pfister: No, but it is interesting because I mentioned Penny at your retirement dinner. She was at the podium and so forceful and smart, as always. At the end of this talk about Bob, she said, "I can't stop without saying one thing that is most important, personally, and to a lot of people out there." And then she just pointed around the room, and it was a big room filled with people, judges, others, because it was his retirement dinner. She said, "Not a single one of you male partners out there—not a single one, as wonderful as you've been, as helpful as you've been—not a single one of you has done as much as Bob Raven has done to help women have a fair shot at opportunities and to move forward in the law." Penny, who is not tall, concluded, "And you did it in the best way, Bob. You respected us. And then you went out, and you told the clients that we stood six foot two and had silver hair and could damned well handle their cases."

You never did it that directly, because you don't do anything that directly, but you managed it and in an awfully important way. When I think of Marshall, Marshall once said something that I thought was one of the most

beautiful things I've heard anybody say. It was at his retirement dinner, and I'll give you a copy as it's a wonderful talk if you are interested in corporate culture. At the very end of it he noted that somebody said that George Burns once was asked about short-term and long-term views, and Burns said something like his idea of a person who thinks short term is a person who won't buy green bananas. Then he said, but that's to be distinguished from a person who plants trees. And I won't try to quote what Marshall then said, but the thrust of it was that there was something selfless and magnificent about tree planters vs. those who won't buy green bananas. Because you have to put the seed in the ground with the optimism that it will survive and grow. You don't get any return immediately, and you have to nurture it, and it takes effort and hope that someday this little tree will produce fruit and shade for others. It is both a selfless and valuable thing to be. He said at that time that he was proud to have partners who were tree planters rather than banana eaters. We have mentioned trees so many times today. Bob is the quintessential tree planter.

Hicke: That's true.

Pfister: It really is true.

Raven: It's John Austin.

Pfister: John, too. We know you best because we've worked with you.

Hicke: John is also a tree planter. We'll put it that way.

Pfister: Right. But that's the culture. Where Bill [Alsup] and Preston [Moore] and some others do a damned good job of that, it is the one thing that's most precious and most valuable in any institution. I really think so.

Hicke: Thank you so much, Peter. You've been great.

[End Tape 13, Side A]

IX. RECOLLECTIONS WITH MARSHALL SMALL AND PENNY  
PREVOLOS

Interview #7, January 13, 1999

[Begin Tape 14, Side A]

Marshall Small

Raven: We lived down the Peninsula at that time, Kay and I did. We came up on the train, of course, and I'd come with this guy who got on down there. We were walking up one day, and I said, "Say, gosh, you'd probably know this guy, because you were down there at Stanford." I said, "Marshall Small is going to be joining us, a guy named Marshall Small." He said, "Marshall Small!" He stopped. He just stopped! I said, "Well, what the hell did you stop for?" "Because, I want to warn you," he said. "You other guys there, you other associates, you better go out and get another job." He said, "Marshall can do all that. He'll do all that. They won't need you guys!"

Small: This wasn't Malcolm Barrett, was it?

Raven: No, it wasn't Malcolm Barrett. Malcolm Barrett was the one who went over to BART. No, no, it was a tall guy like that.

Hicke: You already had a reputation to live up to.

Small: Or down to, whichever.

Raven: He worked briefly with Gene Bennett on the *Embassy Theatre*<sup>27</sup> case, but soon after that he, maybe even before it was over, maybe that's what killed him or sent him down to Santa Clara.

Hicke: I've got a list. Bill Edlund was on that case?

Raven: Bill Edlund worked on the *Embassy* case, too, with him. He worked with Bill Edlund a lot.

Hicke: But, Bill stayed at Pillsbury, I think, so that would have—.

Raven: Yes, Bill stayed right—he's over there yet.

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<sup>27</sup> *McLean, et al. (Embassy Theatre Co.) v. Paramount Pictures, et al.*

- Hicke: Well, let me ask Marshall—How did you first meet Bob?
- Small: I think it probably would have been when I interviewed for the firm. I was teaching down at Stanford in the summer of '54. I came up and interviewed in San Francisco, and interviewed with the firm. I'm not sure whether I would have met him during that interview; I think they took me around to introduce me to the partners.
- Raven: Well, of course I made partner in '56, so I probably did not meet Marshall, as the partners interviewed him.
- Small: Dick was still an associate, too, then. He became a partner I think shortly after I came. I'm pretty sure.
- Hicke: This is Dick Archer?
- Small: Yes, Dick Archer. So I might not have met Bob originally. When I got up here, I was struck, at the time, that unlike the other firms that I interviewed, Morrison made a point of taking you around to meet each of the partners. I thought that was a good thing that they were interested in you as a person. And, so, I'm not sure I met you then, but it would have been probably not too long after I came in October, October 1 of '54, because you know there weren't *that many* associates. The firm was a small firm. I was about the 23rd lawyer to join, and the young Turks were down on the 8th floor. The more senior—
- Raven: I was right next to John Austin.
- Hicke: Those were the young Turks?
- Raven: Bob Homans.
- Small: Bob Homans was on the eighth floor.
- Raven: I'd go out without my jacket on, out of my office, "Robert! Where's your jacket?"
- Small: Yes, Bob Homans was very proper.
- Raven: He became partner when I did. We both became partners at the same time.

- Small: There wasn't enough room on the 8th floor, so I was down in the library originally for about six months, before they expanded the 8th floor and put in more offices. But that's then where we were, and you know, it was a fairly close group, because it was a small group of associates, they knew each other. We often went out to lunch together, do you remember?
- Raven: Yes, I remember that.
- Small: We would go out as a group to lunch.
- Hicke: Where did you go?
- Small: Well, there was a place called Stanford Café then. I think they used to have sliced beef sandwiches.
- Hicke: For twenty-five cents, or something like that?
- Small: Oh, it was very modest. So, we would sometimes go there. There was a place over near the foot of—was it Kearny?—called Helwigs. We'd sometimes go over there. There was kind of a modestly priced restaurant on Sutter near—McLean Goldberg Bowan used to have a store there then, kind of a fancy grocery store like S.S. Pearce in Boston, and they had a sort of a restaurant upstairs on the second floor. We'd sometimes go there. There were various places around the downtown area.
- Raven: Like Schroeder's for eighty-five cents.
- Hicke: Schroeder's is the very famous—
- Raven: Eighty-five cents!
- Small: We used to go to Schroeder's. As a matter of fact, I ran into Bob at Schroeder's yesterday.
- Raven: It isn't eighty-five cents anymore.
- Small: Bob used to love the huckleberry squares for dessert.
- Hicke: The huckleberry squares?
- Small: Huckleberry square was a dessert in which they specialized, and I guess they still have it.

- Raven: I have no idea. I don't eat desserts anymore.
- Small: Then there was the Fly Trap. We ate at the Flytrap. The old Flytrap used to be in existence. There were a number of places that we would go, and as I say, we went as a group often and would talk about current events.
- Raven: We sometimes went to Jack's, over on Sacramento and Montgomery. Jack's is still open today.
- Small: Yes, Jack's has opened up again, but I don't recall that we—I mean Jack's was a little higher scale for us. We were impecunious associates at that time.
- Raven: I guess that was a little later.
- Small: Yes, probably so. There was a spirit there among the associates, because you'd talk about a variety of things. It might be an issue of law or politics, what was going on, so it was a good group. So, that's my early memories of—.
- Raven: You should tell us a little about the first case you worked on with Mr. Hohfeld, because I remember you down in the library—
- Hicke: Let's hear about the case just quickly, if you can—we're going to get you in more detail one of these days.
- Small: I use it as an example to young people to make sure that you're sufficiently deferential to your elders in terms of their opinions, but if you believe what you come up with is right, stick to it, because you're only as good as your own opinions. Mr. Hohfeld had been very close to the Morrisons, and was really treated like a son.
- Raven: He lived with one of the Morrisons at one time.
- Small: Yes. And, when Mrs. Morrison made her will, she set up a trust for 20 years and made Mr. Hohfeld a trustee of that trust. He not only was a very good lawyer, but he was a very good investor, and he doubled or tripled the corpus of that trust while he was giving money away to a variety of things that we see in San Francisco benefit from that.
- Hicke: Morrison Planetarium?

- Small: Morrison Planetarium was a good example of that, and—
- Raven: Stradivarius violins all over the country, very expensive and a lot of young kids got Stradivarius—
- Small: About the time I came was about the time for the 20-year term of that trust to end. It would have been set up in about '34, and I came in about '54. So, he had an idea that he wanted to perpetuate it instead of have it come to an end, by incorporating a charitable foundation or corporation, put the assets into there. He wanted to make sure he had authority to do that and came to me as a young associate – one of my first assignments at the firm was to tell him whether he could do that. I looked at the law and came to the conclusion he *couldn't* do that. Mrs. Morrison had intended that the thing was going to be wound up after 20 years, and that was that. He was not a “happy camper.” He came down to the library to talk to me about the cases, and I was very deferential to him, just very polite, but I stuck to my guns. I showed him the cases, and he stomped off. Jack McCrystal, who was one of the – he was in probate at the time – was sitting at work in the corner of the library, and he came over and patted me on the back and said, you know, “Don't worry about that,” but I went home that night and told my wife I didn't know whether I had a job anymore. It wasn't until years later, *years* later, that I was talking to Mr. Hohfeld's daughter [Mrs. Jane Galante] in one of these sessions where we were trying to remember what happened, and I recounted this to her, and she said, “Yes.” She said he respected me for standing up, and he did. He terminated the trust and gave all the assets away. I use that example from time to time to tell young people that, you know, you're only as good as the opinions you come up with, and if you think you're right, stick to them.
- Hicke: I'm glad you kept your job, otherwise the firm would have had to hire back all those associates they fired when you came. *[laughs]*
- Small: Oh, that was not true. We didn't hire too many. I mean the firm grew very slowly in those days.
- Raven: He'd been brought here by his brother, Wesley Newcomb Hohfeld, who was then teaching down at, or later went down to Stanford and eventually to Yale.
- Small: Hohfeld had. Yes.

- Raven: Then his brother went back, of course, to—was it Yale where the whole—
- Small: Well, to Stanford. No, I think he later went to Yale. He went down to Stanford and then went back to Yale where he developed his concept. But, Mr. Hohfeld said that when his brother left – this was Wesley Hohfeld – Edward Hohfeld was in the firm, the partner that Bob and I knew – but his brother, Wesley, said when he left, he went to Mr. Morrison and said, “I want to go teach, but I have a worthy successor for myself, my brother, Edward.” And that’s how Edward Hohfeld came to the firm.
- Raven: Hohfeld was the only one of the older partners who would talk about the break-up with—it went three ways, you know, Dunne, Dunne & Phelps, and Herman Phleger’s outfit. He was the only one who would talk about it. But, boy, he would *really* talk about it.
- Hicke: He was bitter?
- Raven: He had me up there for a whole day one time when he spent most of the time talking about it. He didn’t tell me that he was the one who broke down the door, but he was one of the young guys who broke down the door, I heard. Mr. Clark wouldn’t do that. He told me that he got this call from May T. Morrison. She wanted to meet with him. And he met with her. She said, “You know, this is terrible.” So, she went over and told Phleger and the rest of them that the young guys were going to get the Morrison name. That’s how they got the Morrison name. They got it, because of her.
- Small: And we have the correspondence, copies of the correspondence that May Morrison wrote expressing her concerns and such. One of the reasons, I think, that Edward Hohfeld was so bitter, particularly with respect to Herman Phleger, was related by his daughter to me. Originally Phleger was looking for a job, and there was no job in the firm. So he said he’d work under Ed Hohfeld’s desk.
- Raven: Yes, he said, “Where are you going to sleep?” He said, “I’ll sleep under your desk.”
- Small: Hohfeld went to bat for him. It was because of Hohfeld that Phleger got a position with the firm. Mr. Hohfeld’s daughter said that the families were close, the children played together, and so it was a particularly bitter turn of events when Phleger turned on him and, in effect, tried to shut him out of the firm. So you can see that in those days there were very strong feelings,

which over the years then ameliorated – not in his generation, but certainly in Bob’s. One of the things I remembered in terms of one of the turning points was I think—was it the Harrison brothers who—

Raven: I represented Harrison. He asked me to come down. I couldn’t figure out what the—

Small: Yes, and I went over. I went with you on one occasion.

Raven: Well, we needed a good lawyer, and so—

Small: No, no, I forget why I was—but, maybe to protect your flank, I don’t know. Anyway, I viewed that as kind of a turning point, because I thought that was a real compliment to Bob that the Harrisons had a problem and they wanted him to represent them.

Hicke: Just for clarification, these are members of the Brobeck firm? [*discussion among many voices*]

### Penny Prevolos

Hicke: Well, Penny, how about you? When did you first meet Bob?

Prevolos: Let’s see, I met Bob—and I’m doing the math here—I met Bob my second summer in law school. So if I started in 1976, that must have been the summer of 1978. I was a summer associate here, well, two buildings back, I was a summer associate at Morrison & Foerster. And I remember it very well, Bob, because it was an antitrust counseling matter for Anheuser Busch, and they had just left, they were in the process of leaving the firm to use Brobeck, as I recall. I got assigned to do this project with you and Jim Garrett and Marc Fairman. I don’t remember the details, but I do remember that they wanted us to say it was OK for them to do some kind of merger or acquisition. I remember my project was to go decide if it was OK. I told Garrett, “You know, Jim, we just don’t have enough information. They are telling us what their market share is. We don’t know if it is right. We don’t know how they are planning the market. We don’t have any facts. They’re not telling us what they want to acquire,” which seemed to be a competitor. What I recall is that it was quite a political issue at the time, because of the client leaving for another firm. I guess they’d been an old client of the firm, but management had changed.

Raven: No, I don't think they had been, because see, they did come to us after that. In fact, you remember Garrett and I tried that big antitrust case for them?

Prevolos: I think that was before.

Small: What year was this?

Prevolos: 1978.

Small: Because you see, now, this was in the period when they had originally been at Brobeck.

Prevolos: Maybe coming to us was the issue.

Small: They came to us from Brobeck, but it would have been before, because I know you had done litigation for them. I remember, they were getting into difficulty with the sensitive payments problems there in the middle 70s. This would have been probably in 1976 and you were dealing with Fred Kuhlmann, the general counsel?

Raven: Right.

Small: I had been involved in SEC negotiations on sensitive payments for another client, and so you mentioned to Fred, and I remember you bringing me down to sit down and talk with him about it. This would have been in 1976, when the relationship was very good.

Hicke: This is Anheuser Busch?

Small: This is Anheuser Busch, because then that led—I think Mel and I worked on that then, because we had been working on the other one and worked very closely with them in negotiating with the SEC and resolving it.

Raven: That was at general counsel.

Small: Sandy McDonald, was it? But Fred Kuhlmann was really a senior over him. I remember we had very close relations, because I remember working with Augie Busch III, himself, on that thing.

Raven: I went back and met with him one time back at the big brewery. I saw the big horses.

Prevolos: It may have been that it was, I just remember it being portrayed to me, the junior kid, as this is a client we don't want to offend right now. I guess it was still a developing relationship at that time.

Small: But the relationship was already quite strong, Penny, because I think in terms of what was going on—

Raven: We won that big antitrust case for them, the one that Garrett and I worked on, we tried it.

Prevolos: When was that? I'm trying to remember. I think that was before I was here.

Raven: I think maybe it was.

Prevolos: Because I think it must have been early 70s.

Hicke: We can look that up.

Prevolos: Early 70s, does that sound right?

Small: Yes.

Prevolos: But in any event, what I remember is Bob saying, "Well, just go tell them we can't give them an opinion. If they don't want to give us the facts, we won't give them the opinion." And that's my first memory.

Hicke: *[to Small]* Kind of a similar story to what you're telling. You tell people the way it is.

Small: Not what they want them to hear, but what you think—

### More on Fujitsu

Prevolos: This is at a different level, though. This wasn't me telling Bob something he didn't want to hear. This was Bob deciding to tell the client something it didn't want to hear. But, you know, the sort of uppity youngness jumps ahead even ten years in my time with you, Bob, maybe more, but when you were talking about the uppity young people, you know, the tradeoff between being sufficiently deferential and being firm, what sprung to my mind was the Fujitsu arbitration and [Michio] Naruto's comment to you, do you remember?

Raven: What comment?

Preovolos: Bob had pulled together a really big group of young litigation partners, and we were all pretty self-confident. Preston and Harold and Ron Carr and me and Gary Rinck.

Raven: Harold, remember we sent Harold over.

Preovolos: Harold, I don't know if he was in yet but, Harold.

Hicke: Harold who?

Preovolos: McElhinny.

Raven: Remember Harold and his wife went over to Tokyo.

Preovolos: They spent a year there. But in any event I remember we were all in a big conference room. The arbitration always met in hotels, and we would have huge conference rooms. You sort of have to imagine it as a mass movie production about some huge case. And before the commencement of every arbitration session, we would have a meeting with the client, remember that?

Raven: Yes, yes.

Preovolos: We would meet first among ourselves, and we were very contentious. You know, we yelled and screamed and fought about what the right result should be. Sometimes we did that in front of Naruto, and Naruto made the comment to you that he couldn't imagine how you could have this team of people who you always let talk back to you and fight with each other, but then the minute that we were in front of the arbitrators you had this wonderful cohesive, obedient team. His comment was something like he would never let his people be that contentious, but then he could never get them to be as cohesive either. At the end of the day they're all sort of sitting there going—*[pause]*

Hicke: That's a good story.

Preovolos: He was very struck by that.

Hicke: It's a good illustration of how Bob got things done.

- Raven: That's been a tremendous client, hasn't it? What we've made on that. And the good people to work with.
- Prevolos: Very good people. Loyal, very straight, usually. We had our moments of extracting facts from them.
- Hicke: Can you tell me more about the case, starting—do you know how it came to the firm?
- Prevolos: Fujitsu?
- Hicke: Yes.
- Prevolos: Well, that's really almost before litigation's time. Amdahl had—
- Raven: Amdahl, you start with Amdahl, because they owned Amdahl.
- Prevolos: Brobeck represented Amdahl, right?
- Raven: Right.
- Prevolos: And then they had a conflict. They couldn't represent Fujitsu. And there was a copyright issue, but Dave Nelson and you—
- Small: I may be wrong, but I think originally it was John Larson.
- Raven: Carl Leonard.
- Small: Yes, but I think John Larson had the representation of Fujitsu, and Tom Terry was a good friend of his, I think. I think he came over, maybe through Tom Terry, who then would have referred it to Dave. I think Dave Nelson really then was the corporate person.
- Prevolos: That's right. They had a copyright problem, Fujitsu did, with IBM on their operating system. I'm talking about long before even the 1983 agreement. This was probably in 1981 or 1982, I'd guess.
- Raven: Dave became very ill, you remember, and I went over there in his place in 1982. That was my first—I went over there by myself.

Prevolos: But the first thing that happened I think is they asked for advice, and Dave involved that patent firm you guys always used, I'm blanking on the name of them. They had offices down on the Embarcadero.

Small: Townsend & Townsend or Flehr Hohbach—

Prevolos: No. Carl Limbach.

Small: Limbach, Limbach and Sutton.

Prevolos: You can tell from reading, you know, we had extensive minutes and notes about what happened in the Fujitsu case, which no one will ever want to read, but God knows, they're there. We brought in Limbach to advise them on the copyright issues. And in this we don't have any sort of written documents to show this, but it is fairly obvious that Dave and the lawyer from Limbach told them they had a copyright problem. As a result, they entered into a settlement agreement with IBM in 1983. The so-called 1983 agreement. I know Dave Nelson was advising him on that. At some point during that process he had his heart surgery. Right before—

Small: No, no, no. That would have been much later.

Prevolos: He was in the hospital at some point.

Raven: It was in 1982 when I went over there for the first time. He had his surgery then. That's why I went over.

Prevolos: What was wrong though? There was some illness, right?

Raven: He was in the hospital when I went over.

Small: Was that when he had his heart surgery?

Raven: Yes. That's why I went on over. It was 1981 or 1982. Someone was talking about that the other day, and I think I looked it up. I think it was 1982, because I remember they took me up to this beautiful hotel, to the top of it, and we were having dinner.

Hicke: We're talking about Tokyo now?

Prevolos: Yes.

- Raven: Tokyo. I was the only one there other than all of them and the chair, what's his name? He is still the chairman.
- Hicke: The chairman of Fujitsu?
- Preovolos: Was it [Takuna] Yamamoto?
- Raven: Yamamoto. Yes.
- Preovolos: But Dave, I know, and you obviously should talk to him, but some of this is pretty clear from the minutes we have; the client's minutes and so forth. What we know is that he advised them about the problems with that 1983 agreement and told them he did not think it would solve their problems with IBM long-term.
- Raven: They kept him in a hotel room, though.
- Preovolos: I remember. They never let him into the—
- Raven: He had never met Tom Barr.
- Preovolos: That was the other part of the story I was going to—Fujitsu, the Japanese have a very different, particularly then, had a very different role for the lawyers. Not seen, not heard. So they kept him locked away in a hotel room.
- Hicke: Who are we talking about now?
- Preovolos: Fujitsu. David Nelson. Fujitsu when they were negotiating the 1983 agreement. And so he had this very odd role to play, because he was never in any of the negotiations. He was just warning them about the problems. And we have a memo he typed, I think right before he went into the hospital.
- Raven: I remember that memo.
- Preovolos: It exists. I mean we can get it. It talks very prophetically about all the ways the 1983 agreement was going to fall apart. And it did. They got into another huge dispute.
- Raven: I guess he never, at that time, Barr didn't go over, Tom Barr, did he?

Prevolos: It was just —

Raven: Who was their inside counsel?

Prevolos: It was before Evangelista. Katzenbach. I think it had to be Katzenbach. Evangelista was there by the time of the arbitration. I'm pretty sure he wasn't there.

Raven: Well, you're right. It might have been Katzenbach.

Prevolos: But I don't know if Katzenbach was very involved. I think it was the business guy at IBM who did most of the negotiating.

Raven: It could be.

Prevolos: The guy who chain-smoked. Remember? He never could stop smoking.

Raven: Yes.

Hicke: I have to clarify this. Katzenbach and Evangelista were IBM?

Prevolos: Yes. Donato Evangelista was the general counsel of IBM from some time in the early 1980s, but I don't know that we even know exactly when.

Raven: I was glad to see Katzenbach testify the other day for the president.

Prevolos: Nicholas Katzenbach was the former general counsel and also a former attorney general and then—

Small: In the Kennedy Administration, yes.

Hicke: Did you continue to represent Fujitsu in this?

Raven: Oh, we represented them.

Hicke: Bob, I mean you, personally.

Raven: Oh, yes. Then I got very involved with them.

Prevolos: Bob got brought in to do the arbitration. You were the Great White Hope. You were going to save them. Remember? Bob was going to save them. It was just that simple. And it was really perceived in those terms, you know?

This was a crisis. The company was going to go down. I remember your coming to talk to a couple of the younger partners, somebody and me, and you kept calling it "The Case of the Century." Remember that? This was going to be the case of the century.

Raven: The money spent on it was!

Prevolos: It was, in all kinds of ways.

Hicke: IBM had what?

Raven: A regiment on it.

Hicke: Of lawyers?

Prevolos: They had a huge team. Well, they're represented by Cravath, Swaine & Moore, and they had a lot of lawyers from Cravath and a lot of in-house lawyers. Marshall, you never came to this party.

Small: No, I was never involved.

Prevolos: Round the world party.

Raven: I remember I rode with Tom Barr in New York. We were chauffeured in a long limousine. I think that Cravath probably had a lot of those.

Prevolos: And to Europe only on the Concorde, right?

Raven: *[laughs]* Yes. That's right. That's how he went to Europe. He ridiculed us, I think, for not using it.

Prevolos: He sure did.

Raven: We spent a lot of time in England together.

Hicke: I was wondering what was going on in England.

Prevolos: They were trying to select a neutral arbitrator. Each party had a party arbitrator. The way it works sometimes in arbitration is each side selects an arbitrator and then together they select a neutral. Our party arbitrator was Bob Mnookin, Robert Mnookin, who was then at Stanford and is now at Harvard. Their party arbitrator was Jack Jones, who was then, I guess, the

vice president of the Norfolk & Southern? He was the vice president of a railroad. I can't remember which railroad.

Raven: He was also affiliated with them in some ways.

Prevolos: Yes. He'd been affiliated with IBM and, anyway, they went off to—this was before I was on the case—but Bob and who, Tom Barr?

Raven: Yes.

Prevolos: Went off to—and the neutral arbitrator couldn't be from the U.S. That was the rule. Or from Japan. So you went off and interviewed a lot of barristers and solicitors.

Raven: Tom came up with the guy from Canada.

Prevolos: McDonald?

Raven: McDonald.

Hicke: So then who did they get?

Prevolos: They didn't replace him.

Raven: They dropped down to the two.

Prevolos: They dropped down to the two, and they worked as a pair.

Hicke: How did it all turn out?

Raven: It went on for how many years. I finally—I was going away to the ABA.

Prevolos: That's the only way you got away, Bob.

Raven: I think I showed you my [honorary] wristwatch band the other day.

Prevolos: It went on for a long time. The initial settlement was in 1987, of sorts. We then had a mini-trial on a number of issues. That was the so-called PDR, the Program Dispute Resolution, in the summer of 1988, which primarily resolved the disputes between the parties.

Raven: How long were you over there? You went over—

- Prevolos: I never lived there. I just went a lot.
- Raven: Who all went? Harold [McElhinny] moved with his family.
- Prevolos: People who have lived in Japan: Harold McElhinny, Mike Jacobs for a summer, remember? He was there for that first summer. Steve Schrader, Laurie Hane, Preston Moore.
- Raven: Preston took his family over. He got Harold's place, didn't he? Harold was coming back at that time?
- Prevolos: There was a little bit of tension about that whole relationship.
- Raven: Well, it probably worked out well that one was coming and one was going.
- Prevolos: Being in different countries helped. Who else? Oh, well, then Carl Anduri, of course.
- Raven: Oh yes, Carl went. Carl was over there already working on it.
- Prevolos: He initially went for this case, though. He got involved with the Article Four Rules. And then Grant Kim went.
- Raven: We must have had twelve people over there, early on, and later more.
- Prevolos: Well, during the PDR, remember, when we were working, at one point we had to prepare a case on each of the programs and the software programs that were in dispute, and we basically sent an army of people and experts over there.
- Raven: Then the closed facility. Who came up with the closed facility? That was when —
- Prevolos: A secured facility was what it was called. They called it a secured facility. And the secured facility regime. What we basically needed to say is that they resolved a lot of issues and a significant payment changed hands, \$287 million, I think.
- Hicke: Which way?
- Prevolos: To the other side, which was actually a great win for us.

Raven: It was a tremendous win. What did we start with?

Prevolos: One billion. One billion or more.

Hicke: Just to go back. Fujitsu had some software that IBM claimed was copied?

Prevolos: What they allegedly copied was the software for IBM's mainframe operating system.

Raven: Fujitsu had come out with a very good mainframe right about that time over there. And so it was that interface they were arguing about. They claimed that they had us on the interface; that we'd stolen some of their stuff on the interface. That was quite an experience.

Prevolos: But in any event, it then ended in a kind of workout. What happened was they resolved all these major issues, but they created a regulatory regime; basically a private regulatory regime with a secured facility. So when Bob said how long did the case go on, well, we didn't close the secured facilities down until what, two years ago?

Raven: I think so.

Prevolos: Very recently.

Raven: That was a long time.

Prevolos: It went on forever.

Raven: That was a great adventure, wasn't it?

### Miscellaneous Cases

Hicke: OK. Let's go back to Marshall for a minute. Did you work on any cases with Bob?

Small: Very limited, because I was basically doing corporate work. I did some litigation at the beginning but not with Bob. I think we tended to interact on cases when Bob would occasionally call me in to kind of help. I can remember a couple in the settlement stages of cases. One was the *Brock Theatre* case, *Chuck E. Cheese*.

Prevolos: Oh, yes. *Pizza Time Theatres*.

- Small: Yes. Pizza Time Theatre. Another was the Salyer, the Fred Salyer dispute down in the Central Valley.
- Raven: That was a great case, wasn't it?
- Small: That's how I became involved in those. Later on Bob and I worked together on Varian. They had a special committee investigating certain problems that came up in one of their divisions, and they needed counsel for a special committee to investigate what went wrong, and so Bob and I worked together.
- Raven: We did work on that, didn't we?
- Prevolos: Marshall, didn't you work on some of those sort of early eighties or mid-eighties takeover cases with Bob?
- Small: Not with Bob. That was with Jim Brosnahan.
- Prevolos: There was one, though, was it Natomas and Diamond Shamrock, or was it *Hecla v. Day Mines*? I remember there was one where you called me at six in the morning, because we needed some antitrust counterclaims.
- Small: That was Diamond Shamrock, because Peter Pfister was working on that one, and Bob would have been involved in that one.
- Prevolos: I do remember that one.
- Small: The McKesson and the Day Mines were with Brosnahan, but it was Diamond Shamrock, and we were representing Natomas. That's right.
- Raven: The one Jim had was the one they had up in Idaho or somewhere?
- Small: That was the Day Mines.
- Prevolos: I knew it was one of the two.
- Small: Because I can remember we had to take on Dick Jennings who had come up as an expert for the other side on what the Cal Corporation Code meant in terms of whether preferred shareholders had voting rights or not. And so we had to take him on and rebut that, which we were successful in doing. But that was a brief I worked on with Bob and with Peter.

Raven: You were a corporate guy.

Small: I was a corporate guy. My name never went on the briefs. That was the position, you know. Litigators put their names on the briefs. I didn't put my name on the briefs.

Hicke: Did this case make case law?

Small: Oh, yes. There is a decision out there. It was originally decided in a trial court, the California Superior Court, and then it was affirmed on appeal, be the intermediate appeal, California Appellate Court.

Hicke: It sounds like a fairly crucial thing.

Small: Oh, it is. It is.

Raven: There are a lot of crucial cases.

Small: It was an important case, and it was a case that academics just bite their nails over. They didn't agree. They agreed with Dick Jennings. They didn't agree with what we did, and I have in years since argued with academics about this. As a matter of fact I kind of got my turn-about when I taught an M&A course down at Stanford in recent years and explained the case to the students that I was right.

Hicke: You got your chance?

Small: I got my chance to get back at them.

Hicke: Can you start at the beginning and explain a little bit more about this case?

Small: Oh this. You really want to hear a lot about this case, because I think we want to make sure we don't get off on—We'll talk about Bob. It was simply a case where Diamond Shamrock, who was the aggressor, made a hostile bid for Natomas, which had been, originally Natomas—this is a bit of history—had been a client of the firm. Back in the old days, they were an old Sacramento gold mining company, and they came to us. They had local counsel in Sacramento and came to Morrison & Foerster originally back when I was a young lad in the 50s, around 1956, and we helped them at that time on a corporate transaction, which is the deal with Ralph Davies in which Davies took over, actually, took over Natomas. Then we dropped out

and didn't do any work for them for years. Then ultimately they evolved into an oil company—a big oil company—and the fellow who came up from down in Southern California to take over as their chair, Dorman Commons, ran Natomas. They developed a very large oil exploration capacity, and we started doing work for them again. Their general counsel knew us, and so we started doing work for them. At some point, Diamond Shamrock, which was a big oil exploration company, made a hostile tender offer, and they ended up settling and doing a negotiated deal where they were taken over by Diamond Shamrock. It was in the hostile part that we worked together to try and fend off Diamond Shamrock, and that is what we did. We were working with another law firm on that.

Raven: What was the one down, you mentioned it, you know, where you— What was the name of the company?

Small: You mean down the Peninsula? Varian Associates.

Raven: Varian Associates. That was a pretty big case, as I recall, when we got into it.

Small: Yes. It was a very sizeable case.

Raven: Who was on the other side?

Small: Lerach filed an action in the case afterwards, but we got in to do the investigation first. There were problems involving government contracting, Department of Justice. There were a lot of those going on in those days, and they were investigating procurement problems.

Raven: What was general counsel's name?

Small: John Cooper was the general counsel.

Raven: Right.

Small: He'd been a classmate of mine at Stanford. But I think you ought to go back and talk about Bob. You talk to Bob about the Embassy Theatre case, for example.

Raven: We talked about that.

Small: Did you talk about his representation of Memorex?

Hicke: No.

Prevolos: Actually, it was in the last transcript. That's the Memorex/IBM case that people were talking about.

Hicke: Oh, O.K. Thank you.

Raven: Tom Barr, you know.

Prevolos: Well, the other things we should say before I forget and one of the things I meant to say on the earlier tape is remember Tom Barr accusing you of being on a crusade against IBM? Remember that in the arbitration? *[laughter]* I remember that. It was so—Here is Bob, a reasonable man with no enemies, and Tom Barr—and this was in front of the arbitrators. I don't know if it was in front of the arbitrators or in one of those executive, remember the forced negotiations, the Responsible Executive Meetings, the REMs?

Raven: Responsible Executives, I remember that.

Prevolos: They were Responsible Executive Meetings before they went into arbitration. But it was memorable to all of us.

Small: You see, my kind of perspective of both *Embassy* and the *Memorex* cases, comes from a little bit different perspective. They both had a common theme, which was contingent cases.

Raven: Exactly.

Small: And in the first one, the Embassy Theatre case, it was a rather unusual case, I remember Bob talked about it, because I'm sure, because the firm was not used to taking plaintiff's positions in antitrust cases. But it was a situation where—

Raven: But the firm never realized it was a plaintiff's position.

Small: *[laughter]* I don't know whether it was the first—

Raven: We used to get in these conferences. Colonel Bennett would come over, and Arthur Dunne and Mr. Clark would be there. He called me up, and we started talking, and pretty soon I had the three of them against me. Mr. Clark was saying, "Wow, these plaintiffs—" *[laughter]*

- Small: I remember it, because of the fact that I don't know whether the firm had had any contingency cases, but I—
- Raven: I don't know how they ever talked. Well, Lee Dibble was a pretty persuasive guy, and I think Lee double-talked them into that.
- Small: Well, they thought they were going to make a lot of money.
- Raven: Worked out, you know. That was before I got here. He did the first memos on it. He signed the corporate group up on it.
- Small: Yes, well, I think the partners thought they were going to make a lot of money on it, and in those days it was kind of symptomatic that when we came in as partners in 1961 that they cut us out of the thing. In other words, we were not going to share in any of the profits. You know, they were going to keep it for themselves and on the theory that a lot of the work had already been done, why should we profit by it? And it is one thing that bothered me.
- Raven: Well, they had an awful lot into it.
- Small: That's right, but it kind of bothered me at the time, and we normally didn't do that sort of thing, but we came up and did it again in the *Memorex* case, if you remember. We took that on as a contingency, and that was about the only other case I can recall—and that was the period when I was managing partner when that was going on where the partners decided that they were going to not include younger partners in any proceeds of that case. Again, you know, it was against my better judgment. I didn't like that kind of arrangement. The reason I mention it is Bob and I needed to interchange on this, because Memorex, this was a contingency fee case where we were putting a lot of money into it, and what we got out of it would depend on how the case went. Memorex was in bad financial condition at a time when it represented about a third of our billings in the firm. So I would periodically ask of Bob, all right, how is the case going, and should we have, you know, a fresh look at it as to whether, is this case really going to go somewhere now?
- Hicke: "Can we order lunch next week?" [*laughter*]

- Small: I was at the same time pounding on Dave Nelson's door because Dave was the principal partner on *Memorex*, to see if we were going to get our bills paid in order to make payroll.
- Raven: Larry Spitters was the president.
- Small: In the early 1970s this was going on, and so Bob, to his credit, because he was really into the case, very much, it was a big case then for Bob, but he would be very objective about it and a great professional. In other words, he would not bridle at me when I'd come and knock on his door and ask him about it, because he'd tell me I was doing my job, and he approached it very professionally and very objectively, and ultimately that's what we ended up doing was getting—
- Raven: Got out of it.
- Small: We got Gibson, Dunn in to do an independent evaluation of the case and where it was, and we got out of it, and they took it over.
- Raven: We left them some people, the guy that's become a judge now, who went down to—
- Preovolos: Haley?
- Raven: Not Haley? Yes, Haley did do some work on it, but I was thinking about the fellow who went down—I think he's come back to us recently. Went down to the DA's office down the Peninsula.
- Small: Gee, I don't remember.
- Preovolos: I know Stan Doten worked on it.
- Raven: Yes. Stan worked on it too. Stan stayed and worked on it. We did a great thing, and I don't think Gibson took it on contingency, did they?
- Small: I don't remember that, Bob.
- Raven: But they lost.
- Preovolos: One has heard they lost some money, actually. The word around was that they took a bath.

- Hicke: Did you come out even, at least?
- Raven: Oh, no.
- Prevolos: God, no.
- Small: I doubt it.
- Raven: Well, that was the time to get out of Memorex anyway. They were kind of going to hell.
- Small: We represented them, and we continued to represent them, but by then they were in the position where they were starting to sell off their business, and eventually we did represent them as they sold. They sold out finally, and their business—
- Raven: Larry Spitters—interesting guy.
- Small: Yes, he was. Every so often I'd bump into him at the symphony. These things are still perking around here in the Bay Area.
- Raven: Loftier than hell.
- Small: Oh, he did all right for himself in those days.
- Hicke: Do you recall any anecdotes about working with Bob, or things that happened around the firm?
- Small: Well, you know, you try to think back, and as I say, most of our working together was in terms of the management of the firm rather than working on cases. I mentioned—
- Raven: There wasn't much of the back and forth between business at that time and litigation. I never worked with John, for example.
- Small: No. One of the few times—
- Raven: And Dave Nelson just on the *Memorex* case.
- Small: One of the few times where there was kind of a corporation, and I think it was perhaps characteristic of Herbert Clark at that time, was in the Blyth, Dant & Russell situation. I remember where the business department was

overwhelmed, we'd just had a tremendous amount of work to do, and we called in, actually, for help from the litigators. This was a case where Blyth, which was then one of the preeminent investment banking firms here on the West Coast, founded by Charlie Blyth, had undertaken to acquire and sell off this huge lumber empire up in the Pacific Northwest. Dant & Russell, Coos Bay Lumber. It was a huge transaction, and we—

Raven: And a huge piece of litigation.

Small: I don't remember the litigation, but I remember Dick Archer. Were you involved in that?

Raven: Yes, Dick took me with him. He took me up to Portland, and we spent a couple of months up there at the worst time of the year in Portland. It rained all the time. I read all the history on the ships that were going across and getting sunk off Africa. I spent a lot of time on it.

Hicke: Lumber ships?

Small: We were representing Blyth, who was acquiring Dant & Russell and Coos Bay Lumber Co. and a whole bunch—

Raven: That is the case where Dick and I went up to Portland.

Small: We spent a lot of time on that case. One of the things that stuck in my mind was one of the few times when the litigators got into corporate matters and I remember, I think Herbert Clark had Dick get his own copy of the New York Stock Exchange Company Manual.

Raven: He wanted to use yours!

Small: Yes. That continued to be in his possession for a number of years after that. The library used to make changes in it. It always tickled me that, you know, that was just the way Mr. Clark operated. You know, if he was going to get into something, he was going to kick it over and make sure he did it and never mind the corporate guys. I remember, because, as I say, it was one of the few times the litigators got over into the corporate area. I don't think we worked together too much on it.

Raven: No. My job was to go up there to read all of the documents over years. I read about when this ship went down and when this ship was destroyed off Africa and— It was kind of interesting.

Small: Yes, it was a very interesting transaction.

**Firm Reorganization, Early 1960s**

Hicke: Maybe we can get into the firm management a little bit. That was an area you both worked in.

Raven: There really wasn't a lot of firm management at that time. Was that when we all kind of looked to Holloway?

Small: Yes. When I came and I guess when you came too, Judge Holloway was the managing partner then. Before, I guess Frank Shuman had been the managing partner, and Shuman was very tight on anything.

Raven: That's right.

Small: Spending on pencils. John Austin used to show me the bound volumes that were kind of cobbled together, because he wouldn't let them spend the money to go out and get regular bound volumes.

Raven: He probably only had a hundred million at that time.

Small: My memories were in those early days that Judge Holloway really ran the firm, and then gradually—

Raven: Well, ran it to the extent it was run at that time.

Small: Yes. It was a small firm, and it didn't have a lot of structure to it. But in the 1960s then he started going along with the idea, and at that time, you know, Bob and John and Archer had their Schroeder's meeting. That must have been in the early sixties.

Raven: That is when John and I, we came back from that meeting, and John wrote out an outline for a partnership meeting, which was the first time it had ever been done. He gave it to Holloway and—

Small: Right, and that was the time I can recall when we started to have committees of the partners. I've got records on what committees you were on, but there

was a kind of a management committee that involved—ultimately Judge felt that this intruded on his running—as he really ran the firm.

Raven: You know how that all happened? Even Hart doesn't agree. Hart tends to play down the meeting at Schroeder's.

[End Tape 14, Side B]

[Begin Tape 15, Side A]

*[Discussion about Raven thinking of leaving the firm.]*

Raven: So Kay and I went out, and I interviewed a bunch of firms. We went over to Stockton. Had an offer from a very fine firm there. Went up to northwestern California, Eureka. We went up to Eureka, and we interviewed everyone there, and I had some offers from there. I came back. I didn't go and tell anyone. That's when I went and told John. I said we really ought to stay with this, and we ought to do something about it. That's when Dick and John and I had our luncheon at Schroeder's. We talked about it some more. I didn't tell them anything about this. I didn't threaten them. They didn't have an inkling that I was thinking about going someplace else. But anyhow, John came back and said, "Let's get something together. I'll get together an outline, and we'll submit it to Holloway, and we'll start a committee." And that's when we started recruiting at schools and everything else.

Small: John must have known, though, because I had not known that Bob was thinking of leaving until just within the last year.

Raven: You see, he didn't put as much—It makes sense. Neither he nor Dick saw it as important as I saw it. I was about to leave.

Small: But that's what spurred it. See—

Raven: I don't think he knew.

Small: Oh, yes he did!, because—

Raven: I hadn't told him.

Small: John and I would have lunch periodically and just talk about old times.

Raven: Maybe he figured it out.

- Small: Well, he did, because he told me, and I didn't realize this until just within the last year, when he said that that's when the firm came as close to breaking up at that point, in the early sixties when he had learned, I don't know how, or figured out that you had your resume out, and he knew that he'd better move and had better, you know, get things in order. At least that's what he thinks is the thing that precipitated it.
- Raven: I never talked to him about that I'd been on the trip, but that's why I asked him to have that meeting. I wanted to find out if we were going anyplace. And we did talk about how we ought to change things and how we ought to do this thing. And he came back, and he drew up the thing we gave to Holloway, and we had that meeting.
- Small: That led, then, to the establishment of committees, as you say, the going back and recruiting, because the firm hadn't hired anybody in a long time. I mean, you talk about a firm that was dead in the water—
- Raven: In fact, it was after that they brought in that woman.
- Small: Which one?
- Raven: Lawyer. Remember the one that Hart—? You should remember, because Hart was going to take us to task on it [hiring women] up there at the firm meeting. All of a sudden Marshall spoke up, very quiet, and said, "Hart, you're out in the tide, and it's up to your neck." And Hart shut up. I remember that every so often. Hart got quiet, and he said, "OK, go ahead." That's when we started sending people out, like myself and Dave Nelson, to go to the schools and—
- Small: I think it was Milton Friedman's daughter who was one of the first women we hired.
- Raven: It was?
- Small: Janet Stansby.
- Raven: What's-his-name's wife? She married our partner who is not in much anymore, who worked with me so much—big tall guy.
- Prevolos: Bruce Dodge?

Raven: Bruce Dodge, yes.

Prevolos: Now, that's Wendy Wyse.

Small: No, that was much later. Janet Stansby was older. She was one of the first ones.

Prevolos: She was before me.

Small: But then management evolved.

Hicke: Who was after Judge Holloway?

Raven: Dick Archer.

Small: Dick Archer. And that would have been in the late sixties, 1968/1969, and he was managing partner then.

Hicke: Was he elected by the firm?

Small: Not an election. In other words, I think the Judge had recommended him and talked to the partners, and so he was in. I'm trying to think whether at that time we had a long-range planning committee.

Raven: I think I was in charge of that.

Small: And maybe personnel. I've got some of those records I've kept from back then.

Hicke: And the long-range planning committee did some of this deciding about who was going to be the managing partner?

Small: No, no.

Raven: We started setting some things for the firm. Out of that came the idea to go to law schools and interview and things like that. They'd never gone to law schools, except when Frank Newman talked to John about me.

Hicke: Smart move.

Raven: I don't know about that, but—

- Small: So, you know, the partnership was still fairly small, so you talked to each other. It wasn't structured.
- Raven: And half of it was well off.
- Small: What do you mean, the—
- Raven: Shuman and Foerster and Mr. Clark.
- Small: Yes, but by then—
- Raven: Even Holloway. No, Holloway, probably not.
- Small: Holloway never made a lot of money out of this.
- Raven: I think that's right. All the rest of them were. Hart Clinton was a very wealthy man.
- Small: I still remember a very poignant moment sitting down with Judge, and this would have been, I think, in the early 1970s when I was managing partner, and he showed me what he had taken out of the firm in the years he'd been there, and it was really very modest. His wife, Sally, in some interview indicated that she always resented the fact that those partners kept him so long as an associate before they brought him in as a partner in the firm.
- Hicke: I think Tom Wilson interviewed her.
- Small: I think so, and I think you may find that in Tom's interview notes.
- Raven: I wonder how long was it before they made him a partner.
- Small: I forget what it was, well into the thirties. He came in 1926 or something like that, and it was well into the thirties before they made him a partner.
- Raven: He was one of the great lawyers in this firm, no question about that.
- Small: He was a corporate lawyer.
- Raven: Very good. I went with him into a room of thirty lawyers one time from outfits all over the country, and he sat there and called his secretary and dictated a document. We all signed it. Like that. I don't think they even read it. Everyone respected him so much.

- Small: He was a great oil and gas lawyer. I don't know whether you worked on Honolulu Oil matters, again.
- Raven: No. I didn't work on Honolulu Oil, but I was well aware that that was quite a client.
- Small: Yes. Herbert Clark was a director of that firm, and of course Bob worked with Herbert Clark as the senior litigator. So maybe we didn't have litigation on there.
- Raven: I don't think we did.
- Small: But those seniors—
- Raven: Isn't that why Mr. Clark's son-in-law went over to Hawaii eventually, as a part of that whole deal?
- Small: I don't remember. But they made a fair amount of money back in the days when income taxes were low.
- Raven: They made a lot of money. They were all very wealthy.
- Small: But you have to realize that by the time we're talking about, in the early 1960s, Bob and John and Dick got together to get the firm going again. Roland Foerster, who was the senior corporate partner, was a director of FMC, Food Machinery, which was then a substantial client of the firm, died of a heart attack unexpectedly.
- Raven: In New York, wasn't it?
- Small: In New York; he was back there for an FMC board meeting. He was in his late sixties. By that time Herbert Clark really was pretty much getting toward the end of his career. He was old. Frank Shuman was old and was frankly at the end of his career.
- Raven: Shuman used an oxygen mask and a tank which he carried around with him. He had me call his clients for him.
- Small: Yes, the emphysema. Clark and Shuman died not too long after that.
- Raven: It all did happen in a short period of time.

- Small: In a short period of time.
- Raven: Two or three years.
- Small: The old senior partners just were gone, and what you had were, basically, younger partners who had to then pick up and deal with the firm.
- Raven: And that's when John developed a two-tier payment system.
- Small: That was in the sixties. Up to then it was practically a separate percentage for every partner. I've got these for all of this stuff going back, John emphasized, it just created more heartburn—these minor differences between the partners—and suggested that there just be two tiers. He left Judge Holloway and Hart Clinton out of it. They had a little bit more as seniors. But that was all going on as the firm was now starting to turn to reorganize itself and modernize itself and go forward into the new age.
- Hicke: Well, let's continue on. Did you become managing partner after Dick?
- Small: Yes. Then Dick was asked to leave the firm under very stressful conditions. And I was asked then, by the partners.
- Raven: Was he actually asked then when John met with him?
- Small: Oh, yes. Yes.
- Raven: I remember coming in. I guess I might have started some of it, because I talked, I had talked to, what's the girlfriend?
- Small: Chris Hansen.
- Raven: Chris Hansen. One weekend we were in here. We were doing something together, and I talked to her. And that's when this thing was going on, and I knew about the situation, and I said, "I know what's going. I know that you two are planning on getting married eventually," and I said, "We've always had this policy [about relationships]." I said, "If I could help you get a good job—" I came in on Monday, and she had talked with Dick over the weekend. Dick said, "I understand you wanted to fire her." I said, "What the hell do you mean? I just suggested to her I thought that you two are going to get married. I'm no dummy." But I remember when Dick left, I went in to see him, and I said, "You know, I've always been your faithful

lieutenant, and I hope that you—” and he said, “Bob, we’ve never had any problems.” But he and John got into quite a fight, I think.

Small: Well, I don’t know, and I’ve not talked with John about that. It fell to me to negotiate with him—the withdrawal.

Hicke: With Dick?

Small: With Dick. That was a very stressful situation and one that I still carry with me. And I’ve not talked to John about—although the interesting thing is, that in recent years—

Raven: The three of us go to lunch together.

Small: Yes, and I think John took the initiative in trying to make things right. And saw to it that Bob and John and Dick get together for lunch and break bread, and that’s happening now.

Raven: We’re going next week.

Small: Yes, you know, it is nice that that’s happened. But back in those days—it was a combination of things that I think, you know, Dick had been happily married with a family, and then things happened. I don’t think any of us know exactly what happened to him.

Raven: He went down to Detroit or someplace.

Small: —got hit on the head and—his gentleness—he’d been a very—you know a very conservative family person and things just changed. I think that caused a fair amount of concern in the firm. He became a stranger to his wife. I know one of the things at that time that took me as I was watching what was going was when I began to see he was trying to show partiality to Chris, the young woman with whom he had established a relationship.

Raven: Well, he quit working with Jim Garrett and—

*[mixed voices]*

Small: —that Jim was being disadvantaged—professionally by these relationships, and one of the things that tipped me was they were, you know, we really can’t have this, and it was then—

- Raven: Yes, that was a big problem.
- Small: Yes, you know the consensus then about John clearly took the lead on it.
- Raven: Yes, I know that.
- Small: Yes, but that, so that, it was a very traumatic time for the firm, because Dick had been a very—
- Raven: He didn't come to talk to me about it, but I'm glad he didn't, because it was better the way it was.
- Small: So, then, you know, we moved on then and—
- Hicke: You said that you worked with Bob somewhat on firm management—that's kind of where I'm going.
- Small: Yes, we would talk. We would talk, you see, constantly about things as far as the firm was concerned and, because the partnership was still small, they were trying to share, in terms of issues, various issues we would talk about. Then ultimately we tried to experiment after my term was over—I think in '76—with a kind of a tripartite arrangement with Dave Nelson and Mel and maybe Jim Paras, I don't remember. It didn't last very long. It wasn't workable. It was then we moved to what evolved into our current structure with the chairman. A real chairman of the firm came in in the 70s then, I think toward the latter part of the 70s. There had been a chairman of the management committee. Hart Clinton had been chairman of this management committee they had evolved in the 60s, and then John became chairman of that management committee.
- Raven: Well, I think, after you stepped down, I came in for a while.
- Small: Yes, well, that may be. I remember there were the three in there—
- Raven: For about six years, I think.
- Small: Well, yes, that's when he became chairman of the firm.
- Raven: Yes, I was the first chairman—
- Small: Yes, you see we created it for the first time—a chairman of the firm, not of the management committee. It was really a CEO of the firm.

Hicke: I see.

Preovolos: I can help this much with the chronology, which is that by the time I was a summer associate, which was 1978, Bob was the chair, and Carl was, I think Carl Leonard was then the managing partner.

Raven: Yes, that's right.

Preovolos: And I know that wasn't brand new then, so it had to have been in the mid 70s.

Small: It was in the mid 70s when it evolved. We did a study, I think, during that time, I think Carl—

Raven: Is that when we put a place in Saudi Arabia?

Small: Ah well, yes, that was in the late 70s when we did that. What happened was, I think, Carl Leonard and Dave Baudler went out and interviewed a variety of law firms around the country—

Raven: We'd heard that they were getting ready to move or something—

Hicke: Was that the purpose?

Small: No. No, it was to interview them and find out how they operated from a management standpoint. They came back and made a report. And it was their report that led then to the creation of what is our current system.

Hicke: What were the reasons for changing? What did they find?

Small: Well, I think that the feeling was that law firms needed to be operated in an efficient, businesslike way. In order to do that, you ought to have some kind of management structure in which you could have direction and somebody who had responsibility for steering the firm. That's when we evolved the concept of the chairman of the firm.

Raven: That changed all of the law firms. At Brobeck, Phleger & Harrison, Phleger was kind of the guy to run it. They had a very nice guy who was a very good lawyer for a long time. He was looked at as you would today look at the chair. But there were a lot of changes coming along. I think a lot of firms were on the ball like ours for a long time. They—they all had their clients, there was more of that having their clients. Mr. Clark had his

clients, Mr. Shuman, had his, he had the banks, and Foerster had his. Leon de Fremery had the tax clients, you know. There were a lot sharper lines in those days.

Small: I put in historical context the evolution of firm management. Law firms evolved in three different eras. One, the old days, going back before World War II and in particular lasting for perhaps sometime after WWII depending on the firm, where you had the firms dominated by one or a few senior partners. Really ran things. They were their firms, and what they said went, and that was it. The younger partners didn't participate really in firm management or anything like that. And then you saw a movement as those older oligarchs or whatever you want to call them phased out, into an era when the younger partners wanted to be involved, and so you saw an evolution of committee structure where a lot of people were involved in committees, and so you had just a proliferation of committees running law firms. The natural consequence of that was that authority became diffused, and firms were not managed particularly well. So you then saw a movement toward what we now see in the modern era—efficient management of the firm, centralized management, as firms got bigger, in order to be able to make decisions efficiently. You see the structure develop the way it's developed now in most firms. I've often seen that in the firms.

Raven: Now it's become a full-time job.

Small: Oh, yes, yes.

Raven: For a manager of a firm, like Steve Dunham—

Small: Yes, that's the way it's developed. Of course, part of the issue is how do you involve the partnership in decisions? On what things do you involve the partnership in decisions? That always depends on the individual firm—its culture, how it's developed, what they're used to. But I think increasingly as the years went by, firms became larger, being the partners of necessity seemed to leave more and more to management to do and left with the partners themselves, only ah, certain residual sorts of the role. For example, in our firm, a partner's vote on every admission to partnership. I don't think that's true for some law firms today, you see.

Raven: Not true in every firm.

- Small: No, no, I think they know to delegate to an executive committee or something like that. So it depends on the culture of the firm. I think we've seen that kind of evolution. Bob throughout was very much involved in shaping that in terms of the way the firm was managed and giving it a sense of direction. He had a tremendous amount of respect from his partners, and he needed that to—, because you know, lawyers tend to be a bunch of independent cats, and with strong minds of their own. It takes someone who commands the respect of the partners to be able to lead them. And Bob had that for quite a long time.
- Raven: I was older. *[laughs]*
- Small: Well, it was not that, it wasn't a question of age, Bob. But, ah, you know. It was a sense of looking ahead as to where the profession is going, and Bob was the one who was pushing the long-range planning committee so that we didn't get lost in the forest for the trees, making sure you're taking the time to sit back and think about problems that confronted the professional side of the firm. That's part of what was involved as the firm's management evolved.
- Hicke: How long were you chair, Bob?
- Raven: I think it was six years.
- Small: Something like that. I came into the chairmanship in '82. So that would have been—
- Hicke: That's about right.
- Small: That's about right.
- Raven: There's a plaque back in my bedroom that tells me, I'll look tonight and see.
- Hicke: Would it have been then under your chairmanship that the firm started perhaps hiring the business manager and separating some of these management functions?
- Small: I think so. Oh, well now wait a minute. As a matter of fact, Dick hired Joan Cahill back in the late 60s, I guess, out of a firm in Milwaukee, and she was the first non-lawyer manager as such, that we had.

Hicke: *[to Preovolos]* What did it look like to you, when you came in, the management structure?

Preovolos: Well, Bob was a very strong chair, very dynamic and pretty much could have the last word on anything in those days. But, the one thing we haven't talked about, is that Bob was the source of the firm's vision and was a bit more like a business, the chair of a business. Then we really did have a management, the day-to-day operations when it was run by Carl Leonard. I think that was an evolution that you sort of brought about, being prepared to delegate more of the day-to-day administration of the firm to somebody else, because unlike most people, you never gave up practice. When I came here, you were still practicing more than full-time.

Raven: Yes, I think that I felt that I couldn't do it that well anyhow, and that's why I got Carl to do it. Course, Carl did a hell of job with it.

Preovolos: Carl did a good job, although I disagree that you couldn't do it well. You just were not interested in deciding what we paid word processors, but a different role in management.

Hicke: You didn't want to choose a new carpet, Bob?

Raven: No.

Small: No, well, that was an evolution, though, you see in the firm too.

Preovolos: That's what I mean.

Small: I remember when I was a young partner in the 60s we used to have partnership meetings once a week, and when it came to raises for secretaries, the partners would sit around the partnership table deciding how much of a raise you gave to a secretary, I mean it was crazy. You talk about why it was needed—the necessity of organizing to become more businesslike. You evolved so you did have an executive director who would make determinations, recommendations, and pretty soon it was only management who was passing on those things. Partners never even then got into the question of how much of a raise this secretary is going to get at the end of the year.

- Raven: I think that what we did here though with Carl and myself, you know, we just have a figurehead, I think that was the first any firm did that. Now, of course, most firms have it that way.
- Preovolos: I think that's right, because that meant giving, in a sense, a lot of power to a younger partner, which now it's like, who is going to get stuck being managing partner of the San Francisco office, this year? But it wasn't like that in those days.
- Small: No, it's that cultural evolution from, I've got to have my hands on these kinds of decisions. In fact, my God, if we're going to have to operate like a business, we've got to have people to have the authority to do this.
- Raven: And know something about it.
- Preovolos: Well, you know, even in, even in the late 70s and early 80s when I came, there was a fair amount of tension in the sense that there were still huge committees. If we ever went back and looked at how much, in terms of opportunity costs, we spent in lawyer time on those committees, I think we would faint, because there were still committees that passed on a lot of things.
- Small: I still carry in my memory the fact that during the time I was chair, I was trying to get things centralized, and getting a management committee, I think we called it that then, that would speak for the firm, so that you wouldn't have to go to the firm as much.
- Raven: Not wait for a problem, but to anticipate.
- Small: That's right, and you and John were involved in that in terms of evolving that structure. And to try to figure out, well OK, "How big of a management committee do we need?" Ideally, it shouldn't have been more than ten or something like that. The number of people who felt they had to be part of the management committee—we started out with a huge committee. Again, it was part of the evolution—
- Preovolos: The growing process.
- Hicke: Yes, that's really interesting.

Small: —of people being unwilling to turn loose. And finally then, of course, we ended up going in the other direction, cutting the thing down to have the smaller management committee. It was all evolutionary.

Preovolos: And over quite a bit of time. I was just an associate in those days, in the early 80s. But even we knew that there was this huge battle about who would be on the management committee, and there was a lot of tension between the departments I remember, you know, it was a one person, one vote. Was it? How was it going to work?

Small: Oh yes, well, that's right.

Preovolos: Tax and Labor were ready to leave the firm. They were going to be disenfranchised. There was a whole lot of that kind of politics. It was obvious to everybody. The partners here usually did a pretty good job about being discreet about most sort of tensions. But, boy, not that. That one was out there!

Small: Oh, yes, that was a hot topic. I think you and John and Carl came up with the suggested structure as to how we head in those directions. You know, saying, this was a kind of continuum regardless of titles or anything else—the continuing discussion, working together to try and move the firm along in a positive direction.

Hicke: One question that interests me is, you said you were in litigation and you were corporate head, and so these had already been divided up, sort of, before you came.

Raven: Well, not in a real formal way. But if you went to work for Mr. Clark, you went to work in litigation. You didn't do anything else. And Marshall working with John and Holloway, why, you were in the corporate group.

Hicke: I see.

Raven: That's kind of the way it was.

Small: Yes, although as you say, it wasn't formal then.

Raven: No, it wasn't formal.

Small: Even then, [J. Franklin] Shuman, for example, was basically a bank lawyer. But he felt he could do litigation. One of the first things that I did as a young associate was work with him on a case he had, defending Crocker Bank, and helping him try the case. It was a bench trial before Theresa Meikle. And then helping him work on the appellate brief. So, in other words, it was mixed in those days. It really depended on for whom you worked, as Bob said, rather than whether it was corporate or litigation or what have you. Finally it evolved so that we came up with departments. But that was, I think, well into the 60s.

Shuman was a very difficult person. He was a bully. And if you let him, he'd run all over you. And again, be deferential, but stick to your guns.

Hicke: Was he deferential and polite with the clients?

Raven: Up to a point, probably.

Small: I don't know. I never saw him, frankly, in the years that I worked with him, in the early years with the firm, interface with a client. I mean, I interfaced with him, but I never saw him interface with a client. Crocker Bank was his big client then.

Raven: He used to walk across the street [jaywalk].

Small: He really was irascible. Each of them had his own personality.

Raven: He had his own chauffeur.

Small: Yes.

Raven: The chauffeur brought him in.

Small: Roland Foerster was just always courteous to everyone.

Raven: Politeness, polite. Very polite.

Small: Yes, even when an office boy came in, he'd be courteous to him.

Raven: And women loved him. Kay was so entranced with him, I remember she first met him in one of our firm meetings. He was a tremendous gentleman.

- Small: Yes. A very courtly person. Each of them had their own personalities that you observed as a young person.
- Hicke: Let me get one thing straight here. I think what you're saying is that, if you had Crocker Bank for a client, and they had a case that had to go to trial, you tried it, whether you were—
- Small: Well, see, that's the point, yes. In those days, he tried that case—
- Hicke: Because it was his client.
- Small: —because it was his client, even though he really was not an experienced litigator.
- Hicke: And was that true of other clients and cases?
- Small: I'm trying to think. That was the only one I worked with him on, that I can recall. I think he sent me out on a demurrer involving the bank, on another case. But I think there was a lot more of that—
- Raven: It died off, though, at the end of his, I remember I'd be out there, at the probate court on something, and he'd tell me what to do and all that stuff. And the, who was the old judge? God, he was an old man. He'd always say, "Hello Mr. Shuman," things like that. "How's Frank?" he would ask me after Shuman ceased going to court.
- Hicke: Do you recall, Bob, that in these early days, somebody would send a case to you, that they had their own client, but the case had to be tried, so they would ask you to try it?
- Raven: Well, the time came when—
- Hicke: Yes, it's hard to differentiate the two.
- Raven: —that all, yes, that all the cases came into litigation.
- Hicke: To trial.
- Raven: Yes. But that wasn't always true, I don't think. In fact, I think I did kind of equivalent of trials, I don't know if they finally got tried, but for Shuman, trying to think of one.

Small: I'm trying to think of anything besides Shuman, because—

Raven: Shuman was a, yes, de Fremery wouldn't have touched—

Small: No, he wouldn't—

Raven: —it with a ten-foot pole.

Hicke: Judge Holloway, would he—

Small: No.

Raven: No, Holloway wouldn't either.

Small: No, no. Or Foerster.

Raven: See, it was changing about that time.

Small: Yes. And I think it came—

Hicke: Shuman was kind of a holdover?

Small: I think he was, because I think—

Raven: He was a holdover. *[laughter]*

Preovolos: Okay, good. You just made me think of, when I first came to the firm, Bob, one thing we haven't talked about is the fairly informal tone. In a way, that's what Naruto's comment went to. Bob really did treat the younger lawyers as equals.

Raven: I thought they were ahead of me.

Preovolos: And his peers and colleagues, which is the reason a lot of us came here, I think, that whole sort of environment. But what I can remember vividly is, we all called you by your first name. But we never called your secretary in those days by her first name.

Raven: I didn't either! Miss Cobb—

Preovolos: I would call, and it didn't sound funny to me at the time, but I would call and say, "Miss Cobb, is Bob there?" *[laughter]* Think about that. It's just a

small story that captures Bob's whole personality and his willingness to deal with people on their own terms. I would no sooner have called Miss Cobb "Virginia" than I would have flown to the moon, and I don't think anybody did.

Raven: But she thought that was all right to call me Bob.

Prevolos: Right! Oh, that was no problem! That was no problem.

Small: Miss Cobb may have been a kind of an evolution from Herbert Clark's secretary. Remember Ruth Foster? Miss Foster?

Raven: Miss Foster!

Small: You only called her Miss Foster.

Raven: She was a strong woman.

Small: There were some of those older secretaries who were really quite—the woman who ran the secretarial pool, up on eleven, do you remember?

Raven: What was her name? I'm trying to think—

Hicke: I have her name somewhere.

Raven: She was a tough lady.

Small: She was very tough. She was quite imperious. There was a certain amount of competition that went on between her and the secretarial pool up on eleven and the young Turks down on eight. *[laughter]*

Raven: And Millie [Remilda Costello] ran the phone.

Hicke: Millie. Oh, yes.

Raven: Millie ran the phone by herself, way down the hall. She was good at it, though. Do you remember Boice Gross?

Small: Oh, yes.

Hicke: I'd like to ask Penny, why did you join Morrison & Foerster?

Prevolos: I joined Morrison & Foerster because it had a reputation as an excellent firm that was liberal, not only politically, because—I guess it was—who was the candidate for governor? You guys just about ran his campaign out of these offices. It was in the 70s, very liberal. In any event, very politically liberal and liberal in terms of how it treated its lawyers. You know, young lawyers would get a lot of responsibility, and it was a good place for women, although in those days a good place for women meant that you had a few of them.

Raven: But we were building that.

Prevolos: But you were building that and had that reputation.

Hicke: And you can thank Bob for some of that, too.

Prevolos: Oh, absolutely, Bob was—I said at your retirement that you did more for women in this firm than anybody. And that was true. The other reason was that I wanted to be an antitrust lawyer, and Bob was very well known as an antitrust lawyer in those days, and that was a huge part of the litigation practice in those days, antitrust. So those were really the reasons I came here.

### More Litigation

Raven: What was that case we worked on with that guy over in Oakland?

Prevolos: Oh, *Mayne v. Bank of America*.<sup>28</sup> You mean with Guy Saperstein?

Raven: Yes, Guy Saperstein.

Prevolos: That was a case where we represented Bank of America, the plaintiffs claimed that the bank had misrepresented the rate, the way that variable rate mortgages worked. It was a pretty big case because variable mortgages were relative new. This was probably the early to mid 80s, and they were pretty controversial. Interest rates, you may remember, had gone way, way up. So people had taken out loans when rates were, you know, 9-10 percent, and all of a sudden they were 20-21 percent. People were losing their houses, because they couldn't pay the mortgage.

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<sup>28</sup> *Mayne v. Bank of America NT&SA*. 242 Cal. Rptr. 357 (1st Dist. 1987) Opinion Depublished.

Hicke: They were on a variable—

Prevolos: They were on a variable rate, and it was supposed to be protected from increases, you know, it was buffered, but the problem, the plaintiffs alleged, was that it went up pretty fast and it went down very slowly, because of how the formula worked. And the issue was how the formula had been disclosed, and it also was how the loan terms got extended. But Bob took the plaintiff—it was a class action—the named plaintiff was an airline pilot, a guy by the name of Franklin Mayne and the case was *Mayne v. Bank of America*. And you took his deposition. Bob got Mayne to admit that he'd never thought about the formula at the time he signed up for the loan, had no misconceptions, never thought about it at all. Never thought about the way—

Raven: This was Saperstein representing the plaintiffs?

Prevolos: Saperstein was the plaintiff's lawyer, and you got Mayne to admit that he'd never thought about extending the loan term, which was one of the big issues. We got summary judgment in that case.

Raven: Yes, I remember.

Prevolos: Judge Williamson gave summary judgment and—

Hicke: Thanks to the deposition?

Prevolos: Thanks to the deposition, really, and some legal theories we had.

Hicke: Judge Williamson?

Prevolos: Ray Williamson. Right? Judge Williamson out on the Superior Court. Raymond Williamson, he was the law and motion judge then. He gave a summary judgment, and then it went up on appeal, and—I guess I had argued the summary judgment in the trial court. But I'd made it very clear to the bank that Bob, not to worry, Bob would take care of the appeal. Raven would argue that appeal. I remember, at some point, you said, "Look, you know the case, go off and argue the appeal." And I was terrified, because—

Raven: Where was it appealed? Over in Oakland?

Prevolos: Court of Appeal. No, it was here.

Raven: Oh, here.

Prevolos: Here at the State Court of Appeal. We both thought that we were going to lose, because the judge had basically gotten rid of a class action based on this deposition.

Raven: Which was kind of unusual.

Prevolos: Which was, yes, very unusual. And, George W. Coombe, Jr. was the general counsel then, and Winslow Christian was the director of litigation, who had been a Court of Appeal judge. I just said, "I'm not telling those guys that this brand new partner is going to argue this appeal—it's not going to happen!"

Raven: I probably didn't tell them that. *[laughs]*

Prevolos: A couple days before the argument, and this really is the kind of way Bob advanced our career, you said, "You know the case, you know the facts, you go argue the appeal." I said, "OK, Bob, but you're going to tell the bank. *[laughs]* You're going to tell the bankers that I'm going to argue the case." You did—you broke it to them. And we won. We won.

Hicke: What was their reaction?

Raven: Oh, that Saperstein, he didn't lose many cases.

Prevolos: Saperstein has never forgotten that case to this day, and the appeal was in '86, I guess.

Raven: You know who Saperstein is?

Hicke: Yes, we can talk about him in a minute.

Raven: He's the wealthiest man in America, I think.

Prevolos: He's very, very wealthy, and to this day he reminds me that we beat him in that case, and it was one of the few cases he ever lost. We snookered him!

Raven: Who were some of his helpers?

Prevolos: Brad Seligman?

Raven: Brad Seligman? He was a good lawyer, wasn't he.

Prevolos: Very good lawyer. Guy Saperstein made a great deal of money trying employment discrimination. Huge class actions, just truly—now he spends all of his time investing his money—and truth be told, that's what he does; he retired years ago.

Raven: Well, he's an extremely wealthy man.

Prevolos: He's made tons of money. His younger partner, Brad Seligman, who we're talking about, got a good cut of that money too, and lives very humbly still and started a big charitable foundation.

Raven: Yes, he's running that, yes, yes. I saw something on that recently.

Prevolos: Very different. Couldn't be more different, you know. Both really started out, and Brad's my age, so sort of a child of the 70s but both very much the sort of liberal, you know, who turned up I think as public interest lawyers. I know Guy started out that way.

Raven: What were some of the other cases? We worked on a lot of cases together.

Prevolos: Well, Bob. The big one I remember, other than Fujitsu, is the industrial gas antitrust litigation, the one against Fran Scarpula. Where your friend at Sidley & Austin had the federal multi-district case, Blair White.

Raven: Oh, yes, Blair White.

Prevolos: And then they got sued out here in state court.

Hicke: Can you back up and tell me a little bit about it?

Prevolos: Sure, it was a price-fixing case. The allegation was that the big—it involved industrial gas, like liquid oxygen or liquid or gaseous oxygen, nitrogen, all kinds of different industrial uses. The client was Union Carbide.<sup>29</sup> There were federal cases that were multi-districted in—brought all together in the Chicago Federal Court MDL [Multi-District Litigation], and then they—in

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<sup>29</sup> *Union Carbide Corporation v. Superior Court*, 36 Cal. 3d 15 (1984).

those days the way it usually happened—and I see that in your transcript of the last time that I read, is there'd be a federal, there'd be a criminal case, you know, that the government, or some kind of government case, and then there'd be a federal class action, and then there'd be a bunch of copycat state court class actions filed. One of the big issues about that was, because of some complexities of federal law, which I probably shouldn't go into, there was a very significant risk that both federal and state plaintiffs could recover. In other words, that you could have multiple recovery. In antitrust cases, you get treble damages. Since this was a price-fixing case, if you assume that the overcharge was found by a jury to be, say, \$10M, then you could lose, the company could have to pay \$30M in the federal cases and then another \$30M in the state cases.

Hicke: And Union Carbide was the defendant?

Prevolos: Well, it was really the lead defendant. They were the last to settle. Both in the federal and state cases. They just would not settle. They finally did, though. But we went through all kinds of procedural maneuverings, filed all kinds of motions to try to deal with this problem of getting all of the cases in one court so you wouldn't have this problem with multiple recovery. One of them went up to the California Supreme Court. Remember, you argued that issue in front of the California Supreme Court?

Raven: Who was the Chief Justice?

Prevolos: Well that's what I'm trying to remember, it must have been Rose Bird. Cruz Reynoso was still there, because I remember my husband was clerking for Cruz Reynoso then, so he couldn't work on the case because I was working with you.

Raven: Yes.

Prevolos: So it had to have been the Bird Court, I think. The judges you could see had enormous respect for Bob. I remember talking to my husband about it, because he watched it from the clerk's gallery—and just said, you know, when Fran argued, they just sort of sat there and listened to him, and when you argued, it was sort of like you were the eighth judge up there, they were reasoning with you. I remember the issue, you know, how many times you could recover this overcharge. I remember you using this great analogy about following the bouncing ball through the different market tiers. Bob had this analogy where he talked about, if there's price-fixing, it results in an

overcharge here at the manufacturer level, here's the overcharge. Okay, it's going to bounce down to the wholesaler level and the retailer level and the consumer level, now, how can it be fair that all those people get to recover the full amount? That's not right. If you don't decide our way, that's what's going to happen. And that really was what the case was about. We lost, but that's the way these cases go. But it was a great argument.

Raven: I've forgotten about that. That was right. It was Fran, wasn't it?

Prevolos: It was Fran Scarpula.

Raven: He'd left Alioto's.

Prevolos: Long before that.

Raven: Long before that, yes.

Prevolos: He was with his brother then, Scarpula & Scarpula.

Raven: He was a pretty good lawyer.

Prevolos: Good lawyer. Very well respected by the judges, I think.

Raven: I liked him.

Prevolos: He was the lead lawyer in Sugar,<sup>30</sup> too, I think. The lead state lawyer in the Sugar cases. I forget who the lead federal lawyer was.

Raven: Did you work on the Sugar case or not?

Prevolos: No, they were going on when I came.

Raven: That was Mark and—

Prevolos: Shelley.

Raven: And Shelley.

Prevolos: I know a fair amount about the Sugar case, because it was one of the many indirect purchaser cases, so the legal issues were very similar.

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<sup>30</sup> *In re Sugar Antitrust Litigation*. 559 F.2d 481. June 7, 1977.

Hicke: Can you explain about them a little bit? They were Bob's cases?

Prevolos: They were Bob's cases. They went on forever. They were price-fixing cases.

Raven: That was really when they started bringing these cases out.

Prevolos: State court.

Raven: Multi-district cases, they brought them out, and because we had two people, two judges who were on the national panel, they brought them all here.

Prevolos: Here.

Raven: Well, and we had Alioto and a number of people like that, too. A lot of those multi-district cases, big cases, came out here and we kept the judges busy out here and in LA and so forth. Remember that?

Prevolos: Yes, yes.

Raven: I understand they've just changed that.

Prevolos: Yes, now it's got to go back for trial. In the last year, the Supreme Court decided. It used to be that in these cases, particularly where you've had a government criminal antitrust prosecution, there would be follow-on civil cases all over the country. There might be twenty-five of them all in different state and federal courts. There was a procedure called multi-district litigation, or MDL, to bring them all to one court. It used to be they'd all be tried together to the extent that they could all be tried together, or at least they'd all be tried in the MDL court. The Supreme Court recently decided that was not the right result. So now they all go back for trial and come together for discovery.

Raven: But they go back?

Prevolos: They go back for trial.

Raven: To the individual states, yes, that's interesting.

Prevolos: It's going to be an administrative nightmare.

Hicke: What were these Sugar cases about?

Prevolos: They were price-fixing cases. The allegation was that the sugar manufacturers all got together on a little island, as I recall, right? They were supposed to have met on an island somewhere and agreed on prices.

Hicke: Which companies?

Prevolos: That's what I can't remember.

Raven: Was it Spreckels?

Prevolos: No, I don't think so. I can't remember. I mean I knew at the time. Do you remember?

Small: I remember the cases. I remember Mark working on them, but I don't remember who we were representing in the case.

Raven: Well, it was multi-district court cases. They usually involve so many people, it was just—

Prevolos: Huge.

Raven: It had all those plaintiff lawyers from all over the world, especially that guy from, what was that guy's name from Pennsylvania that was so damn good?

Prevolos: Oh, with the firm that represented UPS, huh?

Small: Schnader, Segal?

Prevolos: Yes, was it Segal?

Raven: No, no, he was a big plaintiff lawyer.

Prevolos: Harold Kohn.<sup>31</sup> I know exactly who you mean.

Raven: Very good lawyer. Let's see, I worked with, I worked on a case—trying to think who else worked on it. Guess it was Mark.

Prevolos: And Shelley Alpert.

Raven: And Shelley also worked a lot on Sugar.

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<sup>31</sup> Kohn, Swift & Graf, PC, formerly Kohn, Savett, Marion & Graf.

- Prevolos: Shelley sort of inherited it—inherited more of it as Mark moved on to other things. The case you started to talk about I didn't work on, but we ought to make sure you talk about it, Bob, and that's the Salyer case.
- Raven: Oh, yes.
- Prevolos: I was on your team.
- Raven: Well, Marshall remembers more about it than I do.
- Small: I don't. All I remember is that we—tough settlement. We got the thing settled. Heller was on the other side, I remember.
- Raven: That's right. Heller was on the other.
- Small: I remember negotiating with the partner over at Heller.
- Raven: Who was it at Heller?
- Small: I'm trying to remember now, he just passed away recently.
- Raven: Yes. I know who you mean, I can't think of his name, very good lawyer.
- Small: Yes, excellent lawyer, and this is a big fight, huge, farming operation down in the Valley. Salyer Land Company.
- Prevolos: It was the brother versus the widow. That I remember. They were fighting over who got control of a corporation, and what I remember is there was the widow, and I forgot her name, Mrs. Salyer, and then your client was Fred, right?
- Raven: Fred, Fred Salyer, yes.
- Prevolos: The issue was the guy who died I guess had control of the company, and so the question was whether his widow would get control or his brother would get control. But you're asking about sort of women's issues at the firm, so I'm thinking what does a corporate control case have to do with women? Well, my memory was, and some of this should be off the record, but some of it's on, there was a real concern that Fred Salyer would not be very receptive to women lawyers, because he was in this nasty dispute with his sister-in-law.

Raven: Yes.

Preovolos: I guess I did work on that case for a little while.

Raven: I think you did some. Yes.

Preovolos: But the main people were A.C. Johnston and Kathy Fisher, and I think it was A.C. who said to you, "You know, this may not be a case to put women on." And you just said, "Then fire the client." You didn't hesitate a minute. You said, "We don't do that." Today maybe that doesn't sound so bold, but this is the mid-80s, it was still a different world.

Small: Oh yes, but it carries through that idea if you show confidence in the people you're putting on the case, the client will understand that. You see that—

[End Tape 15, Side B]

[Begin Tape 16, Side A]

Small: Have you talked about the avocado case?

Raven: Yes, we talked about the avocado case. That was Bruce Dodge. Bruce Dodge and Frances Newman.

Hicke: That was a great one.

Preovolos: You know, while we are trying to remember your cases, here's another one, and that's that Bally manufacturing case. Kathy Fisher, and Marc Fairman, and Gordy later.

Raven: Gordy Erspamer left after we got the whole thing finally worked out. We had a big party. And Gordy lost his wallet. I remember the two of us, we'd been drinking a little bit, we were crawling around on the floor looking for his wallet, and I found it right in the pocket of his jacket, which he had hung on the back of his chair.

Preovolos: That's another case where there was an issue about having women, because the local counsel, I don't remember the guy's name, and I mean this is years ago—

Raven: Very good counsel.

Preovolos: No, he wasn't that great. This was the first person they had, the local counsel up in Nevada.

Raven: Oh, our local counsel.

Preovolos: Yes, remember, and he did not like women, and at one point you called him and said, "Kathy and Penny are in charge, and that's the end of it. You take orders from them." He was not a happy camper. I think in those days Nevada was not as far along as California.

Hicke: Is this is the shoe company that we're talking about?

Preovolos: No, this is the company that manufactures gambling machines. It manufactures gambling machines, Bally.

Raven: Out of Chicago. It's a big company.

Hicke: Then what was the problem?

Preovolos: Well, they were in a dispute with another company. Right?

Raven: Were they getting locked out on their gambling machines?

Preovolos: I know it was a contract—Kathy can fill this one in.

Raven: Who was that guy, I took his deposition—

Preovolos: I worked on it for awhile, his name was Red Emerson. This was Kathy's case primarily, but this was a colorful case, so you definitely ought to get that one.

Hicke: Okay. We'll get Kathy—

Raven: We argued it in the Supreme Court.

Preovolos: I remember—in Nevada, and you felt you got home-towned, as I recall.

Raven: We did. By that time they had brought in a new firm, they brought in a big firm from L.A. I forget which one.

Preovolos: Yes. I don't remember who, but I do remember that. That was an interesting and colorful case, in all kinds of ways. Many of which are so off

the record that I don't even want to say off the record. But you have to say it was quite a circus.

Small: I had some personal involvement.

Prevolos: I remember. I remember that.

Raven: Did you come over with us?

Prevolos: I was involved early on, and then I got off of that, I think, because of the industrial gas litigation in one of the other cases. It was Kathy and Marc—first it was Kathy and Marc Fairman. And I think Mike Carlson, and that guy who left, Gary Ewell. Remember him? And it was Gordy, I think, in a different—

Raven: Gary Ewell, he's married to our librarian.

Prevolos: Our librarian, yes. But I think Gordy was a later case for that client or the end of that case. But yes, he definitely is somebody you ought to talk to.

Raven: We had a great time over there in Nevada. Of course, I'd never been there for any length of time, but that was a different place than we were used to.

Prevolos: Yes, oh, it was different in every way, I'll tell you. I remember arriving, there was some kind of a preliminary injunction, or there was some very quick early motion, and my job was to go out there and run the document production at one of the plants. And Dave Johnson, who we talked about last time, our wonderful paralegal, and I showed up. It was literally freezing, it was February or March, and it was at this huge warehouse. They said, "Okay, well, we call this inner Siberia, because there's a space heater here, and the rest of the warehouse we call outer Siberia." And David, always respectful and polite with clients, said, "How are the documents organized?" And the controller, a guy with a string tie, you know a cowboy kind of guy, said, "Every guy and his gal [meaning his secretary] for themselves. They just put those things wherever they want." I thought, "Oh, you're not in San Francisco now, Penny."

Raven: I'll try to remember more about that case.

Prevolos: You got control of that somehow.

- Raven: There was a law firm that we worked with over there. In fact, one of the guys in the law firm, one of the partners ran a big bank over there too. I'm trying to think of his name.
- Prevolos: Because I was out pretty early.
- Raven: He now, you know, has a big wine vineyard up in Northern California. Some of the best wine in California, and I can't think of his name. [Don Carano]
- Prevolos: I don't know, that was after my time. Yes, the last case we ought to mention, because it was big and it was one of the last big cases, was with our current chairman, and that was Bando. It's reminiscent of Fujitsu in every way.
- Raven: Tell us all, including me, because I've forgotten so much about it. That was Bando.
- Prevolos: Bando was a Japanese company with a Kentucky and Denver subsidiary. They got sued by Gates Rubber Company. Charlie Gates, I guess, was the Gates of Gates Rubber. *Gates Rubber Company v. Bando Manufacturing*.
- Raven: About when was that? This thing is still going on, I know.
- Prevolos: Yes, it was first filed in 1992, I think, and we got into it in 1993.
- Raven: That's been a big case for the firm.
- Prevolos: It's been a big case, and we got into it in a funny way. It's sort of not a, I'm trying to think of how to make this a short story. Basically Bando was sued by Gates for copyright infringement on some computer programs, and it mushroomed into a lot of things, but it started with copyright and trade secret claims over a computer program which is used to determine the size of industrial belts to sell to a customer, you know, for manufacturing equipment and also cars. It started with a copyright dispute, and they had a local lawyer, and they had a corporate lawyer from Baker & McKenzie, I think, although I'm not sure that's right. They had a preliminary injunction hearing. They stipulated that the effect of that could be a permanent injunction. And that's what happened. They lost.
- Raven: Is that right? That was long before we got into it.

Prevolos: That was long before we got into it. So they, in effect, stipulated to a permanent injunction, which was one of those—remember, you kept telling me, off the record, that we ought to look at whether there was a malpractice issue there for the lawyers. They then came to Jon Band in our DC office. They then hired a really good local lawyer. The first thing is that they hired a really good Denver lawyer, Shelley Don, at the Don, Hiller<sup>32</sup> firm.

Raven: Very good in the courtroom, but not great on documents.

Prevolos: Not very sophisticated, but a really good trial lawyer. And he brought Jon Band in to do the appeal on these very narrow copyright issues. But then, Alan Hannano, who was then the CEO of the sub—who subsequently was fired for—

Raven: Stealing money.

Prevolos: For stealing money, which is public, there was a public prosecution—there was a criminal case against him, I think. But in any event, we don't need to single him out. But Allen Hannano decided what they really needed was antitrust cross-claims. They needed to have an antitrust defense against Gates. And they sat down with Phil Bartz. Bartz said, "There's a feel of something, but I don't really see it." They came out and talked to Joe Alioto. I don't know whether it was Joe Senior or Joe Junior, because they never told us. But they came out and talked to one of the Aliotos. They wanted to talk to—somehow they got your name, Bob. And you told me, "I think this is a crazy thing. It doesn't sound like much. The DC office doesn't think there's much there, but this guy Shelley Don called me. Would you call him?"

Raven: Shelley was a great guy.

Prevolos: Shelley was a great guy. So I called Shelley, and I talked to him. Dunham was here for some reason. This was long before he was chairman [of MoFo]—so I got Dunham to come to a meeting. He was in our Denver office. But I don't know whether he came here for this meeting, or whether he was already here, but in any event, I got you and Steve—They wanted Raven, and I said, "I think you need to talk to our Denver office—because this is in federal court in Denver—and Dunham."

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<sup>32</sup> Don, Hiller & Galleher, Denver, Colorado.

Raven: It certainly worked out that way eventually.

Prevolos: It worked out that way. I remember we spent six hours—something like that—we spent hours and hours in the conference room, talking to Hannano and to Mr. Yagi, who was the senior guy. Yagi-san, the senior guy from Japan over here running the U.S. companies. Over time we persuaded them, and I remember Mel Goldman kept walking by this conference room, and every time one of us would walk out, he would say, “So, how much time have we donated now to this matter that you say you’re not going to end up doing?” I remember him teasing us, because this meeting just went on and on and on.

Raven: We got paid over the years.

Prevolos: Boy, did we get paid! But in any event, we ended up putting together a broad strategy—the case mushroomed into a series of different patent and trade secret issues. It involved manufacturing processes for the actual belts. There was just a host of issues. The other side kept amending their complaint, and they would add, you know, ten allegations. I think they were up to twenty-seven causes of action, or something, the last time I looked. Gates was then bought out by Thompson. So we litigated the case for a long time.

Raven: Gates, the general counsel there, got a deal on that, that they would not interfere with this case. And I think that big company rues the day they ever did that.

Prevolos: I’m sure they did. So they left—Gates got bought out long into the litigation.

Raven: But their suit kept going.

Prevolos: Yes, he kept control of the case. So then about, what, a year or so ago, maybe longer, they made a settlement directly, I guess, between the companies.

Raven: That’s happened over a couple of years. And every time, all at once it falls through.

Prevolos: It just blew up again. So they’re back in court to enforce the settlement. It turned out to be just a huge case. It went on forever. But in many ways, it

was Fujitsu revisited. I mean, the same problem about a Japanese company not sort of understanding what U.S. litigation was like and what was happening.

Raven: I remember that I heard Shelley [Don] argue one of the things—

Prevolos: In the 10th Circuit.

Raven: He had a very good argument. He did a very good job.

Prevolos: And he won. It's a published copyright decision.

Raven: That's right. He did win.

Prevolos: And you spent a fair amount of time—we all spent a fair amount of time preparing him.

Raven: What was that? That was part of the fight, wasn't it?

Prevolos: That was the appeal from the trial court—the original injunction decision against them, before we got in, on the copyright issue.

Raven: OK. So we got rid of that.

Prevolos: So they got the copyright ruling reversed. It's a pretty well known—you know, when they talk about copyright law, that case gets talked about now.

Raven: It was one of the first, I think.

Prevolos: It was one of the early cases. And, of course, one of the ways we sold ourselves to the client was, "We are the people who litigated the IBM, Fujitsu arbitration." This was the same kind of case in a lot of ways. We brought in a lot of the same people—Mike Jacobs, remember, worked on it. Ronald Alpin got dragged in as an advisor, our consultant.

Raven: We had a good group. I liked Denver, though. Denver was a good place. I could have stayed there.

Prevolos: Yes, I liked it a lot too. The Brown Palace—that nice old hotel.

Hicke: And that one's still going on?

Raven: It's still going. Steve Dunham settled with them.

Prevolos: It was like Fujitsu.

Raven: You know the fellow, the one that was always the interface. He's retired. I just saw something in one of those big thick publications we get.

Prevolos: Oh, that's interesting. It will go on forever. And they kept telling us—remember they kept wanting to go meet with the other side alone?

Raven: They did one time.

Prevolos: They finally did. But you, harking back to all the trouble Fujitsu got into doing that, told them, "It's not a good idea."

Raven: I think they've decided, now, that it wasn't a good idea.

Prevolos: I think that's right.

Raven: Well, that's very helpful. You know, I had forgotten all about that case. What other cases did we work on? Well, we had that case with Bank of America. That was a big one.

Prevolos: Well, there were two. First we did the prime rate litigation. The litigation about how the prime rate wasn't really the prime rate, because corporations got a lower rate.

Raven: Now, who were we fighting on that one?

Prevolos: It was nobody in particular. It was a series of fairly small cases all around California. But the big issue was whether the bank was going to change from the term "prime rate." We ended up recommending that they do that, remember? You had to go over and meet with the Money & Loan Policy Committee, which was the very senior committee at the bank then, and tell them that it was a good idea to change from prime rate to reference rate. I remember, because Peter Pfister and I had done the work, you know. We had done the research, and we were litigating the cases. I remember sitting in Peter's office, as you were about to go over there, and you looked at us, and you said, "Do you really think it's a good idea to change to *reference* rate when everybody knows the word *prime* rate?" At this point the press releases were drafted, the committee recommendations were in beautiful

binders. And Peter and I were [*groans*]. Peter was very calm, and he looked at you, and he said, "Yes, Bob. It's an excellent idea." And you went on over there and sold it.

Raven: Who was the guy from Pillsbury who was the general counsel over at the bank then?

Small: Mike—

Prevolos: No, no. That was George Coombe. I think it was George Coombe. You're thinking of—

Raven: I'm thinking of the guy who took over from George Coombe.

Prevolos: Yes. He was later. Halloran? Mike Halloran?

Raven: Mike Halloran.

Prevolos: Yes, that was quite a bit later, though, because Coombe was there a while. [*looking at list of cases*] I think that's a pretty good list. Well, you and Peter talked about the case, that malpractice case, the *Ogle and Gallo* case last time.

Raven: Yes, he talked about it, because he really did most of the work on that.

Prevolos: But that was one of yours. The *Bronson* case, too, where we worked with you.

Raven: We did quite a little work on that case that we sent over to them—the case that is still going on.

Prevolos: It went on for a long time. And Fujitsu went on forever.

Raven: We were going to have a case here in California for a while—

Prevolos: We were going to file an antitrust case.

Raven: We were going to file one, weren't we? We finally stopped. We had enough fighting going on.

Prevolos: We had enough problems. I think that's it. [*to Hicke*] But you were asking about funny stories or anecdotes about Bob. Two different cases: one was

Fujitsu. And I don't now recall, and I am not sure any of us would—what the issue was, but throughout the arbitration, Tom Barr is very volatile—

Raven: Real volatile.

Prevolos: Ex-marine, very temperamental, very strong guy. He looks like a bulldog.

Raven: But the only one of a few big, big firm lawyers—he'll argue it right there. He doesn't have to have anyone with a library or anything else.

Prevolos: Oh, no. But very volatile. And so Bob's relationship with the arbitrators was always that Bob was the reasonable man and Tom Barr was this kind of creature that they kind of managed.

Raven: Tom Barr used to get so damned mad, I remember.

Prevolos: The arbitrator would get furious at Barr. I just remember that Bob was always polite and courtly and gentlemanly and the lawyer's lawyer. And then at one point—I don't remember whether it was Marty Senzel or Evangelista—but they said something, and you just stood up, and you said, "That's a God-damned lie!"

Raven: I can't believe I would say something like that.

Prevolos: Because they were accusing us of some kind of misconduct. I don't remember what it was. And there was just *silence*! You could have cut it with a knife. And that was the end of it. If Bob Raven said it was a God-damned lie, it was a God-damned lie. That was the end of it. The arbitrators just—it was really the end of the whole controversy.

Raven: You know, it's interesting on how we started out. We were all going to have our own person. Like Mnookin was going to be our guy. They picked one, and then there was this guy we both agreed on—

Prevolos: Right, we were talking about that earlier. McDonald.

Raven: I remember telling Tom about that. I think it happened over in Denver one time when everyone was there. Tom was going on as usual, "Well, Bob can tell his arbitrator, and I'll tell mine." I, one time, said, "They may all decide they're going to go together—"

Prevolos: They're going to be neutrals. And that's what they did.

Raven: That's what they did.

Prevolos: I remember that.

Raven: Tom said, "Well, I guess you were right, because we liked it." I don't think he liked it, because he knew that Mnookin was a very strong person.

Prevolos: Oh, no, he liked it.

Hicke: You can delete any of this, or you can close it, or you can do whatever you want to with it.

Raven: How did we get down to two arbitrators?

Prevolos: That was the '87 agreement.

Raven: Donald McDonald. Then he became the ambassador—what do they call it when it goes from Canada to England?

Prevolos: Ambassador to the Court of St. James. He was—at least from an American's point of view—he was an odd duck.

Raven: But he was a wonderful guy.

Prevolos: He was great.

Raven: Well, he wasn't—he didn't strike you so much as Canadian, because he didn't do like an American—

Prevolos: Except that he would call me on the phone and say, "This is the Honorable McDonald."

Raven: Did he say that? *[laughter]* But he would give Barr hell.

Prevolos: You're thinking of—I don't know if it was you or—remember, was it Haley who did the arbitrator education? Or was it Fromholz?

Raven: He did that. I had him do that.

Prevolos: They went to Osaka, Japan. The comment was during arbitrator education.

Raven: Haley did all that, yes.

- Prevolos: But I think what you're thinking about with McDonald was when, I guess, Haley argued that they were saying something very inconsistent. And they argued that they weren't. McDonald turned to Barr and said, "Mr. Barr, you can't suck and blow at the same time."
- Raven: Oh, yes. That's what I'm thinking of. That's exactly what I'm thinking of.
- Prevolos: I thought that was what you were thinking of.
- Raven: Yes, that's right. *[laughter]* He would talk to himself. Barr must have damn near fainted.
- Prevolos: Ah, we've had some great cases.
- Hicke: Marshall, are there other things that you recall that we should get on the tape here?
- Raven: Marshall, I thought we worked on more cases together.
- Small: I can't remember.
- Raven: What was that case all about, because there was a big part of it, too, down at—you name the company and I'll—
- [Penny Prevolos leaves the room]*
- Small: Varian.
- Raven: Yes, Varian.
- Small: Yes, well that was the case.
- Raven: Who was that other side? Wasn't there a firm from New York that was—?
- Small: Well, it was Weil Gotshall. I'm not sure whether they came in then or they came in on another one.
- Raven: We had a big case down there. A lot of discovery and—
- Small: That may have been, because Lorach filed the case afterwards. It was a case where whether their employees down in a division in Texas had been involved in dealing with one of these brokers, or something like that. It was

a government contract problem as to whether they were engaged in improper conduct or not. The FBI had come in unexpectedly—came in to search their files and everything—and so they were kind of reacting to what was going on.

Raven: That's where you got into it in a big way, wasn't it?

Small: Yes. So, they needed to have—

Raven: What was the general counsel's name at that time? Do you remember?

Small: Cooper, John.

Raven: John Cooper. He was a nice guy, wasn't he?

Small: Yes.

Raven: Whatever happened to him, I wonder?

Small: Oh, he retired a number of years ago.

Raven: But he was a very very easy guy to work with.

Small: Yes. He had been a classmate of mine at Stanford Law School. That's where I knew him from.

Raven: Well, we've had a pretty good session.

Hicke: Great. It's just been great.

Raven: We've had a couple of good people here to tell us about this.

Hicke: I thank you all for contributing.

[End of Tape 16, Side A]



X. RECOLLECTIONS WITH STANLEY A. DOTEN AND JAMES P. BENNETT

Interview #8: February 8, 1999

[Begin Tape 17, Side A]

Shaw Case

Bennett: That case has so many interesting personalities around it.

Raven: Do you remember that guy's name—Gerry Hosier.

Bennett: Hosier.

*[Everyone talking at once.]*

Hicke: We're talking about the *Shaw* case. I'm sorry. I had to interrupt because I didn't get that first part. You were talking about the *Shaw* case.

Bennett: Oh, okay, we're going—

Hicke: Yes. I'm just going to leave the microphones on the table, I have two. Think they'll pick up pretty well. And you were talking about somebody named Hosier.

Bennett: A guy named Gerry Hosier.

Raven: From Chicago.

Bennett: Bob, you got the Shaw case through Judy, didn't you? Judy McKelvey?

Raven: Well, I don't know if I got it from her, probably did.

Bennett: I think that was one of the ways you were contacted. Bob and I represented a doctor named Robert Shaw who was a cardiovascular surgeon. He had invented a number of different medical apparatus, including positive displacement or infusion pumps; when you go into an intensive care unit, they don't have an IV drip, they have these pumps that pump stuff into you. They had a patent dispute about that. Bob's girlfriend or wife was past president of the San Francisco Bar, or maybe she was president of the San Francisco Bar at the time, Judy McKelvey? And when we were called into the case, I think he'd been, he had a patent license, he was fighting with the

company to whom he'd licensed his patents. They wouldn't pay the royalties; they took the position that his patents were no good and the license agreement itself was tainted with conflict of interest.

Hicke: What company?

Bennett: Oximetrics was the name of the company. They filed the case in San Francisco, and then Bob Shaw went down and got Gene Majeski to file a case in San Mateo.

Raven: Oh, I'd forgotten that.

Bennett: Gene effected service of the San Mateo complaint before they effected service in San Francisco, and Stan went down and argued a venue motion in front of, who heard the venue motion down there?

Doten: More like Priority?

Bennett: It was Priority. Was it Gene McDonald?

Doten: I don't think it was McDonald; McDonald would have come along later.

Raven: Who was the judge we eventually had on that case?

Bennett: Tom Jenkins.

Doten: Might have been Bollhofer, but I can't remember.

Bennett: I want to say it was. I remember Bob Kane had something to do with the argument. Was he there arguing on our side?

Doten: I can't remember now.

Bennett: He was Majeski's partner, the ex-Court of Appeal judge who kind of became the Rose Bird nemesis. Anyway, the case stuck down in San Mateo, so we were litigating down there, and quite a few very good lawyers got involved in that. There was Moses Lasky—Moses Lasky was initially on the other side. And the Lyon & Lyon law firm was co-counsel.

Raven: From Los Angeles.

Bennett: Los Angeles, Jim Geriak.

Raven: That's right.

Bennett: We moved to disqualify Geriak because he had—this was the lawyer who prosecuted all the patents for Oximetrix and for Bob Shaw. And he was still prosecuting a number of patents for him. You argued the qualification motion, that was in front of McDonald, and he ultimately disqualified Lyon & Lyon and Geriak, based on the fact that they had a conflicting current representation.

Raven: That's right, you've got a good memory.

Hicke: So he got somebody else?

Bennett: That's when Hosier came in—Hosier came in to replace Geriak.

Raven: Hosier is the guy from Chicago who did a lot of work for a very, very wealthy man. Was that guy in on this case too?

Bennett: No.

Raven: No. We just happened to catch Hosier.

Bennett: He does all the work for the government. That's it.

Raven: Jerome Lemelson.

Bennett: Doesn't he have a hand in the bar code technology or something like that?

Raven: He's got patents for everything.

Doten: "Submarine patents" they're called, though.

Bennett: What's that mean, "submarine patent"?

Doten: He filed something years ago, and then as the technology changes come up demanding—

Bennett: Submarine patents—

Doten: Many people have been very strong in saying those patents shouldn't be enforceable. Because he completely goes away from the, what the original

filing was. Just claims whatever's current, and then some of the patents are issued years and years, maybe 25 years later.

- Bennett: From what I've read he's collected huge amounts of money, these people kind of roll over rather than—
- Doten: Mostly settlements, he takes 1 or 2 percent and takes the other side's word on what their sales have been.
- Raven: Wouldn't they also have a lot of the patents locked up in Japan?
- Doten: Some in Japan. Most of the time he sued the Japanese clients in the U.S. under the U.S. patents. Bob Loeffler has done a lot of work on the Lemelson cases.
- Hicke: Same sort of thing as somebody filing a whole bunch of trade corporate names or trade names and then when somebody comes up and wants one, they sell it off?
- Doten: A little bit similar to that.
- Hicke: But in a patent case they just have such a general—
- Doten: He has very broad claims. Patents that are not issued for years and years and as the technology changes, he amends them to try to conform more and more to the current technology. Then, if he gets a patent, he says it goes way back to the original filings.
- Raven: Was he supposed to be one of the wealthiest people in the United States?
- Doten: I believe so. Hosier is now, too, himself, based on all these claims. Hosier lives in Vail, Colorado.
- Bennett: Vail or Aspen. He was the cover boy in the *American Lawyer* about, at least five years ago now. He was touted the richest lawyer in America. This man, last year, made more than the entire litigation department at Cravath.
- Raven: Big case, big case, but the only thing I remember about it was I'd get in a fight with that guy, Hosier, that's him?
- Bennett: Hosier, yes.

- Raven: I'd get in a fight with him, or he'd get in fight with me.
- Hicke: In court?
- Raven: Yes. And the judge—Jenkins.
- Bennett: Jenkins, he'd say, "Mr. Bennett, what's the situation?" He'd just wipe the floor with us. So that was my job, to keep him talking. He was really a poor, poor lawyer.
- Raven: Didn't we have a jury?
- Bennett: No. It was bench. You made the decision, quite correctly, to waive the jury trial. We prepared for a jury trial, but we got down there the morning of the trial, and I think McDonald sent us out, and you said we'll waive the jury because you knew you were going to get Jenkins.
- Raven: We were going to get stubborn.
- Bennett: Yes, but also you knew you could get Jenkins. He said, "I'd send you to Jenkins, but I can't. He's got to do other things." We said, "So we'll waive the jury." It led to more flexibility, and the other side said that's fine.
- Hicke: Could you describe Bob's courtroom style, or whatever you call it?
- Bennett: Yes, well, very direct, to the point, kind of like my own. I kind of patterned myself after that. Direct, to the point, factual, credible, integrity, I mean I think Bob had the complete confidence of the judge throughout the trial. Well, they had a few points, but it was one of these cases where you kind of just put the other side on trial. Therefore, you never really look much at our guy, the other side was on trial.
- Raven: Do you ever see Bob Shaw much now?
- Bennett: I saw him six months ago, I guess. We keep in touch. He lives in the neighborhood, so I bump into him in the grocery store every once in a while. But he's doing fine.
- Hicke: So Bob Raven does not get excited?

- Bennett: No, Bob gets angry—and these people got him angry all the time. Bob doesn't suffer dishonest or unethical tactics; they set him off and got him quite angry.
- Raven: Kind of like the guy in Chicago.
- Bennett: And I think the other side knows when they've pushed him to that point, that's a big mistake. Because I think it goes back to the other thing, the judges key off of a lot of what he does. And I think if they see he's angry, they know something is not being done right here.
- Hicke: The respect of the judges is a crucial factor.
- Bennett: Yes, I think so.
- Hicke: Okay. Now what happened in this case in the long run?
- Bennett: We won.
- Raven: We won.
- Bennett: Big time.
- Hicke: On the basis of?
- Bennett: We won on every basis, but basically the judge found that they, the other side, had stolen our client's invention and owed him a lot of money. He awarded the judgment for a significant amount of money and an injunction, which made it impossible for the other side to do business. He gave them a year in which he stayed that injunction so that, basically, we could work things out. The case was worked out by Abbott Labs, the biggest pharmaceutical company in the country, coming in and buying out the other side's business, and our client basically took half the proceeds.
- Raven: Now, what was Moses Lasky doing down there? Because I remember arguing with him.
- Bennett: Moses Lasky. What I remember about this case that was noteworthy about it was the great lawyers that came through that case. Lasky started, Geriak was disqualified, even before Hosier they—
- Raven: Oh, you mean Lasky was—

- Bennett: Lasky was co-counsel with Geriak. Lasky argued the disqualification motion on Geriak's behalf, and when Geriak was disqualified, they brought in the guy named Ray Hofer, from Chicago. He was very respected, and he stayed in the case for about one week, and then he sent it over to Hosier, who had just left his firm. Hosier spun off from his firm, probably took what's-his-name, Lemelson—
- Raven: I'm sure he took him with him. Probably what was going on then—
- Bennett: Lasky then withdrew from the case, because I think he didn't like the way it was going, and they brought in Howard, Rice. Howard, Rice came in for them on the other side.
- Raven: Well, that's right. Who from Howard, Rice was there?
- Bennett: I think Bob Gooding was in on the case.
- Raven: Could have been Bob Gooding.
- Bennett: I think Bob Gooding came in. They had some young guy we dealt with a lot, and then they had a local, George Corwin?
- Doten: There's a George Corey.
- Bennett: George Corey, that was it.
- Doten: Well-connected. That's why they had him.
- Bennett: He was brought in to counter Gene Majeski, and then we on the patent side, we brought in—this was before we had all the intellectual property—then we had Herb Schwartz from Fish & Neave in New York, who at that time had just gotten that billion dollar verdict against Kodak, *Polaroid v. Kodak*. He represented Polaroid, that was his claim to fame. Very good lawyer.
- [everyone talking]*
- Bennett: There was a lot of money involved at the time. This ended up being a \$35 million case. They could have settled it for \$2 million early on. \$35 million was a lot then.
- Raven: Did Kathy work with us on that?

- Bennett: Kathy Bagdonas. Internally here it was ourselves, Kathy Bagdonas, I think Pat Flinn. Remember Pat? He worked on the case. He was a first-year associate, I think. Basically, it was the three of us, and then Bob Morgan from Herb Schwartz's firm was very active in the case.
- Raven: Well, he's turned out to be a good lawyer.
- Bennett: Yes, he's a very good lawyer. He was good at the time.
- Raven: He was good then, but he's come this far. Got a great reputation.
- Bennett: Lasky got back in the case at the end when we were trying to settle, resolve it.
- Raven: Oh, did he?
- Hicke: Came in for the coup, or the last of coup? Why did he come back in?
- Raven: Guy was in it for the money.
- Bennett: Well, because it was a debacle at the time, and he was trying to come in and save some money. And then, McCutchen<sup>33</sup> got involved. McCutchen with Jack Knebel came in. They represented Abbott when the judge was threatening to shut down the company. Abbott came in and said, "You can't shut it down. We need these cassettes. We need this product. If you enjoin..." When the judge threatened to shut them down, Abbott, which was distributing all these products, said, "If you shut them down, we won't have a supply for these healthcare products which are critical to human health and safety."
- Who else? I got to take the deposition in the case of a guy—going way back to the beginning—the guy who was the business lawyer who drafted one of the transactional documents that was involved in the case. He had been a first-year associate at Cravath when he did all the drafting of this deal—Bruce Wasserstein.
- Raven: I know the name.

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<sup>33</sup> McCutchen, Doyle, Brown & Enersen.

- Bennett: It's now Wasserstein & Parella. You know, one of the biggest investment banking—
- Raven: They do have money, haven't they?
- Bennett: Oh, billions! Wasserstein & Parella? They were like an LBO [leveraged buyout]. They were like KKR. They're a KKR competitor. I just saw in the New York Times last week that Rahm Emanuel, one of Clinton's—I guess, a legislative aide who quit about six months—just went in-house at Wasserstein & Parella. He's an investment banker now or something.
- Raven: He's incredibly wealthy.
- Bennett: Yes, he's worth billions.
- Hicke: You were telling us about the deposition.
- Bennett: I was taking this guy's deposition and I think he was at First Boston at the time, and then he left First Boston and started his own firm. But, he was defended by some guy at Cravath, and it was like, the guy from Cravath was yelling at everyone, "He doesn't have the time for this. He's a busy man. He's got a ...!" and he'd be getting calls on this phone every five seconds. "He hasn't got time. This is outrageous! This is an outrage! He hasn't got time for this!" "Well, it's kind of important to our client. We'll just push ahead."
- Raven: How long did it take us on that case?
- Bennett: It was fast! I think we got that case to trial within a year. San Mateo had a very quick docket.
- Raven: I bet it was about a three or four months' trial, wasn't it?
- Bennett: Oh, the trial itself was, we started in September, and it went through Thanksgiving. About 30 days, we had some dark days and off days. It was about 30 trial days.
- Hicke: And they were forced to pay \$35 million? I'm not sure how this all—
- Bennett: Our client collected \$33 million.
- Hicke: Thirty-three.

Bennett: Because Abbott came in and—Abbott paid seventy for the company and we took thirty-three and they took thirty-seven. So, it was a little short of 50%, but it was— And then we went back to Chicago. Remember? We negotiated that at Kirkland's office. I'll never forget how cold that was. Back in February. Art Armstrong. Remember Art? Art's Bob's business lawyer; he was negotiating this deal. Kirkland & Ellis on the other side, and so forth. But there were two great decisions in the case: one, going with the judge, and the other was keeping the case in San Mateo. That Stan did. Otherwise we would have been up here in San Francisco defending—I forget what they were suing us for up here—declaratory relief, probably.

Raven: Well, that was quite a case. Gosh, you've got a good memory. It comes back a lot.

Bennett: Well, it was a very memorable case for me. I worked on it full-time for a year.

### Techite Case

Hicke: Let me just ask you when you joined the firm.

Bennett: I joined in 1975.

Hicke: And when was this case?

Bennett: This case was in 1982 through '84. I think we filed in late '82, went to trial in late '83, and probably settled it in mid-'84. So about two years, a case of about two years.

Hicke: Did you go right into litigation?

Bennett: Yes, yes. Actually, the first case I worked on was with Bob, too. You probably wouldn't remember the—remember the UTC case? The *Techite* case with Jim Garrett?

Raven: I do remember that.

Hicke: Techite?

Bennett: Techite, it was called. It was a plastic-type—

Raven: The thing had to be buried underground down in Texas?

Bennett: Yes, yes. It was a plastic—

Raven: That was quite a case, now that I recall.

Bennett: That was a good case.

Hicke: What was that about?

Bennett: It was kind of a products liability—Johns-Manville was suing our client. Our client was United Technologies, rocket manufacturers, and they'd made these rocket casings. They had this plastic—they had this centrifugally cast plastic piping. Looked like piping, and it initially was rocket casing, and they would put the rocket fuel in it. I guess it could hold the rocket fuel in place as it burned. It was extremely heat- and corrosion-resistant. So somebody got the idea, well, this would make a great sewer pipe because it's corrosion-resistant, but it's 1/100th the weight of concrete or steel piping, so the handling costs will be much less. And the long story made short is, before they put miles and miles and miles of it in the ground around the United States, they overlooked a test. Under the combined conditions of heat, acid, environment and stress resulting from loading on top of the pipe, they'd all fail. They'd crack. These things would crack and just fall right—

Raven: Was this Oklahoma or Texas where this was all happening?

Bennett: It was happening in a lot of places.

Raven: Oh, they were putting these—yes.

Bennett: I mean there were installations everywhere.

Raven: Yes, I guess that's right.

*[Raven and Bennett talking at once]*

Bennett: I don't remember. I don't think we ever got really into the—we licensed the product to J-M, and then J-M manufactured and sold it. And, then when it started going bad, they sued us, claiming that we had failed to disclose defects of the process.

Hicke: So, it all got installed and then it began ...

Bennett: Then it was failing.

Hicke: So how did that turn out?

Bennett: I think it goes on today. I think they're still—we got a very good result. We got out of that case for 800,000 bucks. That's unbelievable when you think of it today. You look at the exposure in those cases, most of them in the hundreds of millions of dollars.

Raven: Big, big outfit.

Bennett: So, our client settled out of that. We got some favorable pre-trial rulings, as I recall.

Hicke: What was your defense?

Bennett: I think a lot of our defenses were as a patent licensor. We simply didn't warrant the efficacy of the process. It's not like selling a good; you don't have a warranty. They have the technical ability to evaluate it themselves.

Raven: There's a lot of work that way. You never want to take on one of those cases.

Bennett: Yes, so I think by the time they settled it, the judge had said, "You've got to show that they actually defrauded you, that is, they knew there was this defect, they didn't disclose it." And, they were never going to—we didn't know there was a problem with this. This is something that everybody—all the scientists on both sides missed it.

Raven: Again, what judge did we have on it?

Bennett: Spencer Williams.

Raven: Oh, Spencer! That's right!

Bennett: He was up here in San Francisco at the time.

Raven: Right, I remember that, sure. That's before they moved them all down there. I always liked him.

### **Pacific Plantronics Case, 1966**

Bennett: Well, let's hear from Stan. Where's the book? I'll look and see if there's anything else I can remember.

- Hicke: Tell me when you joined the firm then.
- Doten: '65.
- Hicke: Then you went out and—
- Doten: Worked with Bob pretty heavily through '78.
- Hicke: Have you figured out some of the more important things to talk about?
- Doten: I was thinking, Bob, of Pacific Plantronics down in Santa Cruz.
- Raven: Right. That's right, you and I tried that case, didn't we?
- Doten: Right. Remember, *Memorex v. IBM* and then along with many others, I worked on timber. You may have covered timber elsewhere, but that was tried in 1980.
- Raven: The reason I was grinning, I still remember that. Stan had gotten a new car. See, we were going down there to try that case, and he wanted to take his new car, of course. And I thought, well that's great, that's great. It was down in Santa Cruz. We got just about—I think we were on Main Street, you know, and I saw Stan kind of look at his hand. He'd been screwing around with a part or something, and he picked it off with those big hands of his, and he was holding it right in his hand there. I'll never forget that.  
*[Horn assembly - see below]*
- Hicke: Picked up a piece of the car?
- Doten: No, it came off. You'd move it in a certain position—
- Raven: He was fooling around.
- Doten: So those are the three cases.
- Raven: How long did we try that case? Did we try it to a verdict?
- Doten: No—
- Hicke: We're talking about?

- Doten: Pacific Plantronics. It started trial, it was a jury trial—the judge was Bauer—I think it was—and he was an older judge, quite well-experienced, and the case settled during the trial. I think the plaintiff had rested, and some of the Plantronics people had testified. I think Keith Larkin may have testified, but Courtney Graham had not, and our engineer had not testified. Well, our client—headset, used now by many of your switchboard operators and your airline pilots and so on.
- Hicke: Who was your client?
- Doten: Pacific Plantronics was the name of the company.
- Raven: Small company when it started but became very powerful.
- Raven: This was their first product.
- Bennett: Were they down in the South Bay or the South Valley?
- Doten: Santa Cruz. Keith Larkin was one of the officers.
- Raven: Was Keith the one that flew the plane out there? Did Keith fly the plane, or was it the other guy?
- Doten: I think Courtney Graham was the pilot.
- Raven: Graham was the pilot, yes.
- Doten: Larkin thought he was the inventor, and he had gotten an attorney from Hewlett Packard to help with the patent application, and he said that he was the inventor. And then the patent issued, and the plaintiff was a fellow named Bowman. I think it's B-O-W-M-A-N. Bowman had worked for Keith, and there was a contract, and the critical language in the contract was something to the effect that Bowman had to produce a working prototype of the device. And if he did, then he'd get one percent of the gross sales forever, is what the contract said. It was a very simple contract that Keith, not a lawyer, had written himself. And then the two of them had signed it and gotten it notarized. So the legal issue was with respect to how much Bowman had done. We based our case primarily on the definition of what that language required Bowman to do. There was a prototype, and there was another word that modified it. I can't remember exactly. But something like a working prototype.

- Raven: Who was the lead plaintiff lawyer on the other side?
- Doten: They were from Watsonville, and I can't remember their name now. Bennett, something like that. Bob Bennett or something like that.
- Raven: Bob Bennett, I think, yes.
- Doten: That sounds like it.
- Raven: Pretty good bunch of lawyers. We had them later on over in that case in Hollister.
- Doten: Yes, they've got a very good reputation. He was nowhere near as effective in the courtroom as we expected him to be. He had a bright young associate, Richardson, who knew the case very well. But they didn't work the case up as well as they could have. And so it didn't go in front of the jury anywhere near as strong as it should have. So they got into a panic and settled for \$100,000 during the trial. And it was a very good settlement, because the one percent forever was a factor, and we had—
- Bennett: What would that have turned out to be, any idea?
- Doten: A huge amount.
- Bennett: Millions and millions and millions.
- Doten: At some point there'd be an argument that the product evolved to such an extent that it didn't relate back to his initial work. So maybe at some point you could cut him off.
- Bennett: There'd be another lawsuit then.
- Doten: But the potential damages were huge, and we had agreed to bifurcate liability and damages because Keith Larkin didn't want the jury to hear his rosy projections about what the market was. But from our standpoint, we were nervous that if the jury just said yes or no as to whether Bowman should win, and had no idea of the consequences, they might be more willing to say yes. And we were hurt in the *voir dire* by two things: one of the women was asked if she'd heard of Morrison & Foerster—
- Bennett: Prospective woman juror.

Doten: Yes. And she said. "Yes, I've heard of Morrison & Foerster because my husband, who's a local attorney in Santa Cruz, had this case and they took it to the big city law firm of Morrison & Foerster." And then another prospective juror, a man, was asked about the plaintiff's lawyers. They probably knew the jurors more than we did, but one of the men was asked whether he'd heard of Pacific Plantronics, and he said, "Yes, it's very clearly mentioned in the footnotes of the annual statement every year when I get it, that there's this lawsuit and Pacific Plantronics is the defendant." Those two things might have worked against us with the jury. So we were reluctant to let the case go to the jury.

Raven: Yes, I remember that.

Doten: Bennett was reluctant to let it go to the jury because he thought his side had not come off very well. I think that Bob did a very effective job of examining Bowman, who wasn't very bright and really wasn't technically adept. He was basically a tinkerer. He knew how to run machinery, and I think it clearly was Keith's idea. I think that it was completely legitimate for Keith to say that he was the inventor and to get the patent. Now there was a follow-on proceeding, because Bowman claimed in his income tax returns that he had capital gains because we had bought his patent for \$100,000. So we had to negotiate with the IRS to convince the IRS what the legal issues were in the case. We said that it had nothing to do with conception of a patent and it had to do with whether Bowman had performed under his contract. By the way, the case was settled, which was interesting, because we were smart enough to figure out what the impact on Bowman's taxes would be if he had to pay on ordinary income rather than capital gains. It was something like \$20,000-25,000; so the company just paid that to the IRS. We didn't want to have a legal challenge over whether Bowman was really the inventor for the patent. So we, in effect, paid his taxes for him for one year.

Raven: God, you've got a good memory, Stan.

Doten: So that was really the first case that I ever worked on to any great extent when I first came in. One of the very first things I did was write a long letter to Keith about all the things that we would have to do to get to the bottom of the case, and I remember Keith was just floored by that letter, a very demanding letter.

*[conversation about Stan competing as a hammer thrower]*

Raven: At Yale or Harvard. At Harvard—In fact, you had the record at that time for quite a while. For twenty-five years.

Bennett: What's that, the ball and chain?

Doten: Yes. Another thing that made us nervous about the trial is that we had met many, many, many times with Courtney Graham, who was the president, and Keith Larkin, who was another officer and inventor. We always thought that Court would be able to support Larkin's testimony about what happened, and then just before we were going to put him on, he said of course he was never present during any of those things and all he knew was hearsay. So we learned somewhat to our chagrin that we probably should have been interviewing him separately from the beginning, but we always interviewed them together, and so we had, I think we had two witnesses on, Larkin and our expert. And that went well.

Raven: How did we get that case now?

Doten: I think through the business department.

Raven: Yes, that makes sense.

Doten: Maybe Dave Nelson.

Raven: Dave might have been working with him for all I know. I mean, someone was helping them organize it, weren't they?

Doten: I think they had an existing company, and they'd sort of reached the point where they needed to look for big city lawyers, and the first thing that a big city lawyer did was defend his case.

Bennett: What year did you defend this?

Doten: That was the fall of '66.

Bennett: Oh, wow. I remember when I started in '74, '75—I think as a summer associate I did some project for Plantronics. They were a significant business.

Raven: We've worked together for several years.

- Doten: They became a very significant client afterwards.
- Raven: That was kind of the beginning of all of that, wasn't it?
- Doten: Of our practice outside of San Francisco.
- Bennett: Hi-tech stuff.
- Doten: In those days, and your comments about San Mateo are interesting because there was a time even in San Mateo even up to ten years ago where if you were a San Francisco firm, you'd think of an associated local counsel.
- Raven: Oh, yes.
- Bennett: We did. We had Gene Majeski.
- Doten: And George Corey was brought in. Now I don't think it's that way anymore. I think maybe in the last ten years San Mateo has changed, and Santa Clara changed before that. They were more open to San Francisco firms.
- Bennett: What do you think of all these firms down in Palo Alto?
- Doten: Now it's completely different. But until recently for a San Francisco firm to litigate something on the Peninsula took a little nerve. You had to be sure that you weren't going to be prejudiced just because you were a San Francisco firm.
- Raven: Were either of you in that case that I found help, Dick Archer?
- Bennett: Dick Archer was before my time.
- Raven: Was he gone by the time—
- Doten: He left in June of 1971.
- Raven: Were you here?
- Doten: I was here. I became a partner contemporaneously with Dick leaving.
- Raven: Remember we won that case, and then he took an appeal. I remember David Balabanian gave me hell because he was working for a judge who is now

dead who was a very good judge. [Matthew Tobriner] A Supreme Court justice. And he wrote the longest opinion that had ever been written in the Supreme Court of California at that time. It was 130 pages or something like that. He used to come around here.

Hicke: What was the case?

Raven: It was—what was the case?

Doten: [Roger] Traynor?

Raven: No, not Traynor. No. He's well known for being quite long, but he was a good lawyer.

Hicke: I think I've read about that. Or you told me about it before. So I think we can find that. Before we leave this case, something that you and Jim both said made me curious. Is there a difference in trying a case in a small town like Santa Cruz? Or in some of the ones that had been in the battle?

Doten: Well, certainly something like jury selection. Santa Cruz is trickier because most of the lawyers that would be on the other side would know of the local community. Someone would say their address, and it would mean a lot more to the plaintiffs' lawyers than it did to us in that sense.

Hicke: What part of town they lived in?

Doten: Right, and I encountered the same thing in trying a case in Aspen in Colorado.

Hicke: Was there a bad address in Aspen? [*chuckles*]

Doten: Well, just that the lawyers on the other side knew so much more about the people on the jury. It's a small town.

Hicke: So can you take advantage of that, or is that a total disadvantage? What was the impact?

Doten: Well, sometimes you can try to counter it by having your client—or hiring a local attorney—to sit in on jury selection. Or if you have a jury consultant, they can sometimes make a study of the community. But going to a small town, like we had a case in Denver, a federal antitrust case that we were expecting to try in Cheyenne. So we hired Hugh Schwartz to try to help us.

Western Title

- Raven: Were either of you here when we had that big case in Hollister?
- Doten: I was sort of in on the tail end of that. Title company case.
- Raven: Yes. Dick Archer, myself, and Bill Berkman. We represented the title company.
- Doten: It was Western Title.
- Raven: And Morris Doyle—I don't know if it was Morrie himself—Walker Lowry represented McCutchen. We were sort of in the way. We would kind of—I don't think anyone ever knew we were representing the title company for a long time and—
- Doten: Title company was providing—
- Raven: C. Ray Robinson was a big guy in the thing. I remember he was the guy with the huge stomach. I remember because the courthouse had burned down, so they put us in the library down there. And I remember I said to Dick, "Jesus, how is C. Ray going to get up to this table?" He said, "God, I don't know." C. Ray came in. He just hoisted up his stomach, laid it up on the table and away he went.
- Doten: What I remember is the handcuffs. You remember the handcuffs. One of the key players was to be identified from a picture, and down at the bottom of the picture you could just see that he was in handcuffs.
- Raven: Oh, yes. Who the hell was that?
- Doten: And the issue was: could you object to the offer of identifying this person by using that particular picture, and I think you started to object, and the judge said, "Well, I don't see anything wrong with the picture." So then you were faced with the question of whether to point out that if he didn't see it, it wouldn't be prejudicial.
- Raven: Well, you never correct the judge.
- Hicke: So what happened, Stan?
- Doten: The picture was used as a way to identify.

- Raven: *[mixed voices, unintelligible]* Walker Lowry. Did any of you happen to know Walker Lowry?
- Hicke: He's a well-known name.
- Raven: Well, he was a hell of a guy. He was at McCutchen, but you would never know it. He wasn't a McCutchen type at all. But he was awfully good, and then the guy for the people—the daughter and the son of the guy that founded Stockton—
- Bennett: Founded Stockton?
- Raven: Yes, the father called him Stockton. Anyhow, they were represented by Vince Mullins.
- Bennett: Who's he?
- Raven: Oh, god. If you don't know Vince you're lucky. He was with a big firm over here. They're pretty well gone now. Very big guy. Very bombastic. He and Walker Lowry would get into it all the time. I mean, that was the damnedest case we've ever been on. There were Dick and myself, and there was C. Ray [Robinson] and there was Walker Lowry, and then there was Mullins. Then there was a guy, who's dead now, from Marin. We finally settled out with him for the title company. He was a well-known plaintiff lawyer. I think of all those people in this little courtroom. He said later that the judge carried a gun. They had a gun all of the time. I guess he did, but I don't blame him at all.
- Doten: It had to do with oil fields.
- Raven: Had to do with a big oil field, yes. And that's why that McCutchen was in it. They represented Shell.
- Doten: I think it was reserved mineral rights and oil rights or something like that.
- Raven: It had been forsaken for years. You know that there had been oil. But some of them got onto it, well, Shell got onto it; they put in a big oil field and that's when everyone went, "Well, wait a minute."
- Bennett: So who was complaining there?

- Raven: The two from—the daughter and the son of the guy that founded Stockton. They came and got Vince Mullins because it was their—if it was worth money, they claimed it belonged to them now. The percent of people, the farmers down there—
- Bennett: They're still around.
- Raven: In fact the guy—state senator—saw him riding a horse all the time. He was up there always on the horse. He is today. [Peter Frusetta]
- Bennett: I heard the name when I was down for that case.
- Raven: Did you go down on the case?
- Bennett: Monterey. Tried a case in Monterey. It involved characters—
- Raven: We had a bunch of characters down there too.
- Hicke: There was a question about who owned the rights to the oil.
- Bennett: Yes, it's like they'd run reservations of oil rights.
- Raven: We proved—I think I did the research on it—we proved it had been given up.
- Hicke: You proved what?
- Raven: It had been given up by the people in Stockton.
- Hicke: The rights to the oil or the property itself?
- Raven: The rights to the oil.
- Doten: But the title company had insured the title without these reservations.
- Bennett: Who was the beneficiary of the title insurance? Shell or—
- Raven: Shell.
- Doten: I remember going with you to interview the local guy in Hollister who left. He really thought they were no good; he easily could have made them an

exception in the title policy because he knew about them. But he figured they were so old that no one would ever make a claim.

Raven: We would meet out there at a motel where all of us stayed except C. Ray. But C. Ray would be there early in the morning. God, he would get up early in the morning, and he'd be there early in the morning. He'd come down there. Where's the—here, Archer, Raven, you've got a big firm up there, and let's have something to drink. So we would get loaded and take the drink. We'd have a big talk about what had happened during the day and what we're going to do tomorrow. And then we'd all go out to the car with C. Ray [Robinson]—he had a big Cadillac—and go up in the car, and he'd be drinking something. He'd be up very early the next morning. He'd be the first one down there. And he never caught on for a long while that we were representing the title company.

Bennett: Who did he think you were representing?

Raven: I don't know. I guess he thought we were representing Shell.

Doten: The title company was providing a defense to somebody.

Raven: To Shell.

Doten: So they were attorneys of record.

Raven: Shell had people from Texas and all over. Well, there was this guy. Now who was he? There was a guy in New York whom we had to deal with for some reason. One day some guy walked into the courtroom, and the courtroom just stopped. Everyone is just looking at him. Chuck just looked at—Oh, we had a great time.

Doten: That was in the 50s, I think.

Bennett: It was in the 50s, that you were doing this?

Doten: When you were down in Hollister?

Raven: Lowry died not too many years after that.

Bennett: How did you get involved in interviewing him?

- Doten: Appellate. They were appellate proceedings that went on. The longest case on appeal in the Supreme Court of California at that time. I'll have to think of that judge's name. I'll think of it.
- Hicke: We can fill that in on the transcript.
- Raven: He was a very well thought-of judge.
- Doten: Any decisions in here? [*referring to a binder with lists of cases*]
- Bennett: Here's one: Cal.3rd 1970.
- Raven: We used to go to the races down there. They had those low wheels to go where—
- Bennett: Supreme Court Judge Sullivan.
- Raven: Not Sullivan.
- Bennett: Ray Sullivan.
- Raven: No, he was very liberal; he was a union man I think that had been appointed to the California Supreme Court in San Francisco. I think he was with this big firm that did a lot of legal matters on legal work for the unions. I'll think of his name—it starts with an M, I think. It's kind of a long name. [Justice Tobriner] I'll call Dave Balabanian and ask him who was that guy you worked for. Of course, his boss made him stay then for another year. To write the opinion.

*Memorex v. IBM, 1973*

- Hicke: We've discussed Oximetrics, and we've discussed United Technologies, and we've talked about Western Title and Pacific Plantronics. You have a couple more cases at least.
- Doten: OK, I was going to mention *Memorex v. IBM*, which is on the list here. The first case. And that was filed in December of 1973. And I worked on the complaint with Bob. Now, previously to that there was an IBM against Memorex which was a trade secret case.
- Raven: Yes. That's right. Were we actually trying that one, or did we settle that one too?

- Doten: We settled it. It's close to the time the trial was supposed to start, that settlement.
- Raven: Who was the judge?
- Doten: I think it was in Santa Clara County, so it wasn't assigned to a judge for trial.
- Hicke: What year is this?
- Doten: That was resolved in 1971.
- Hicke: That was *IBM v. Memorex*?
- Doten: And then Memorex against IBM, the complaint was filed December of '73 and the trial was in the summer of '78. Actually it started in January, January to July of '78. But the firm for the most part was out of it after April/May of '76.
- Raven: We had a contingent fee agreement with them on a lot of things. We did very well with them on other things too.
- Hicke: This was Memorex?
- Raven: They always insisted on contingent fees. We put a lot of effort into that case. We were up against Cravath, Tom Barr's firm. When you're up against Cravath, you're going to put in a lot of work.
- Doten: We got a million dollars worth of time in it when the firm—
- Raven: We finally just said the heck with it. We told the people down at—
- Bennett: You know, it's amazing to me it was only one million. I remember when I started here that was going hot and heavy. We had a separate floor, didn't we?
- Doten: Yes. 22nd floor.
- Bennett: Over in the old McKesson building. We must have had 40 people on that case.
- Doten: Contract attorneys.

Hicke: Well, tell me what the issues were in this.

Doten: Well, it was an antitrust case, and it had to do with the fact that Memorex made computer peripherals that provided the same function that IBM was providing, and Memorex had priced its peripherals under what they called the price umbrella. IBM had a very high price on the peripherals. So Memorex and Telex and a lot of other companies came in and sold the peripherals, only for less, and provided the same speed and the same capacity and the same function generally. And so IBM took steps then to prevent those companies from competing, and they made technological changes which made it harder to lower the prices. All of those companies filed under the federal antitrust laws, and they were all unsuccessful. The courts were fairly hostile to them, and I think the underlying thing that judges like [Samuel] Conti and others didn't like was that they thought because IBM was providing a whole system, that it wasn't fair to just go in and compete on an individual device. So that created a bad image right away with a lot of the judges.

Raven: Now, after we got out of it, they brought in Gibson, Dunn. What was the guy's name who tried it? [John Endicott]

Doten: Funny, I can't remember.

Raven: Big, tall guy. But all those cases, there were a number of cases against IBM at that time.

Doten: They all lost. Most companies went out of business.

Bennett: Control Data?

Doten: Control Data was earlier.

Raven: I think four or five companies—Did [Moses] Lasky have one against them?

Hicke: They all lost against IBM?

Doten: All—

Bennett: Bob, what I think you're thinking of is that Telex sued and Telex got a \$400 million judgment—and they got hit with a \$20 million counterclaim judgment. Then the 10th Circuit reversed Telex's verdict and left the \$20

million standing, and they hired Lasky to—they gave him a contract of a million dollars if they reversed it; it was a contingency petition, and I think he ended up collecting a million.

Raven: Yes. He did. I know he did.

Bennett: They settled out before it was decided, but—

Raven: You know, the son of a gun never thanked me.

Doten: IBM—almost all the cases went to trial, and IBM won, and then those companies went out of business.

Raven: Who were some of the judges who were trying at that time?

Doten: Well, we had McNichols.

Raven: They were from up north.

Doten: From Idaho. Ray McNichols. Chief Judge, District of Idaho.

Bennett: Was the case up in Idaho or here?

Doten: It was in San Francisco.

Raven: They were bringing all those judges down from Idaho and Montana. Some of them real good judges.

Doten: But then for the actual trial it reverted back to Judge Conti. It was multi-districted under McNichols. For trial, we had Judge Conti. He was pretty harsh.

Bennett: Why was it multi-districted?

Doten: There were cases: the Telex case was in Oklahoma.

Bennett: So they put them all three together.

Doten: There were others. TransAmerica had a case.

Raven: This was a home for all multi-districted cases from all over the United States because of the two judges out there on our Superior Court. One of them was

- the judge—See, we were on the multi-district panel in Washington, and that's why we got all the business out here. Most of those big cases would tie a knot in the East, but they were brought out here and tried in these Western States.
- Hicke: Stanley Weigel?
- Raven: Stanley Weigel was one of them. Exactly. And who was the other one?
- Hicke: Zirpoli?
- Raven: Not Zirpoli. It was the guy who used to be over at Brobeck.
- Hicke: Stan, why did IBM win all these cases?
- Doten: Well, the judges basically concluded that the steps that IBM had taken were legitimate. They said IBM had acquired a monopoly unlawfully and they didn't maintain it unlawfully. But I think the fundamental perception was that it wasn't right to let your product compete against only certain devices.
- Raven: Did Tom Barr try the case?
- Doten: In our case it was Pat Lynch.
- Raven: Oh, yes. Pat Lynch. He's a good lawyer.
- Doten: Gibson, Dunn was named the plaintiff's lawyers.
- Raven: Barr had so many cases, including the government case.
- Doten: I think IBM thought it was better to have California counsel.
- Raven: Well, he picked out Pat Lynch, a good lawyer. He did a good job, I know that.
- Hicke: You said they thought—
- Doten: It wasn't a good idea to compete against IBM on only part of the system; I think that was the fundamental motion that didn't sit well.
- Bennett: They just thought it was unfair, or cherry-picking.

- Doten: Cherry-picking.
- Raven: Well, he used to make Tom so mad that—
- Bennett: Was he against IBM? Well, history kind of repeats itself. It's ironic that Barr's sidekick is going after Gates and so forth.
- Raven: Isn't that amazing? Well, you see he left there for awhile. He was a damn good lawyer.
- Bennett: He left because of a conflict over a sports team, or something.
- Raven: No, I think he could make more money. He was an awfully good lawyer. He worked for Tom for a long time. But Tom was one of the best big-firm lawyers I've ever been up against. Most have to take time off. About three weeks to get ready. Not Tom. He was ready to go right then. The judge wanted to go right then; he was ready to go. Good lawyer.
- Doten: In terms of Bob's involvement: Bob was involved when the complaint was filed on behalf of Memorex, and many of the pretrial arguments were before.
- Raven: We just decided we weren't going to put all our money into it.
- Doten: Max Bleecher and Bob were sort of the lead plaintiff lawyers while it was multi-districted.
- Raven: That's how I got to know Bleecher so well.
- Hicke: So it was settled?
- Doten: No. It was tried.
- Raven: We told him to get some good lawyers.
- Hicke: I see, you didn't do—
- Raven: No. No.
- Doten: Bob didn't continue with the trial.
- Raven: See, we agreed it would keep some of our people down there, and that's how you got—who else?

Doten: Craig Moody, Foster Markolf, Nancy Nugent, and I think maybe one other.

Raven: It was pretty hard to dismount a big case like that. It was—and we did too—we had a lot of firm meetings on it, but remember, they wouldn't agree to pay us.

Bennett: Straight contingency?

Doten: Gibson had a 50 percent rate.

Raven: Gibson finally talked them into—

Hicke: Let me stop here.

[End of Tape 17, Side B]

[Begin Tape 18, Side A]

Doten: A lot of future business in Memorex.

Hicke: Gibson, you're talking about?

Doten: Gibson, Gibson did. John Endicott was the guy, lead lawyer for Gibson.

Hicke: And I wanted to ask you, is it fairly unusual for the firm to take a case on contingency, for a client?

Raven: Not that kind of a client; that's what we finally realized. Memorex, you know, made a lot of money, although they had a down period there for a while. Larry Spitters is probably the richest man in the world today. And we just got upset with the fact that they thought that we should carry that whole thing on a contingency. It was the right thing for us to do; I'm so glad we did it.

Doten: Some of us continued, and Memorex paid for us, and we got what's called a pass-through on compensation, plus the firm got \$5,000 a month, and Memorex provided offices and secretarial service, so in theory they were picking up all overhead. And we were off-site for over two years.

Raven: Well, we had a lot of big cases that we could try and get paid for.

Hicke: Why would you take this on a contingency?

Raven: Well, I think what happened—

Bennett: What would the damages have been in this case had you won?

Raven: They'd probably have been big, and I think that might have tempted people a little bit.

Doten: But if Memorex had been one of the leading clients in the firm, there were periods—

Raven: Yes, they had been a big client. We did a lot of work for them, a lot of good work.

Doten: A lot of people in the firm like John Austin and Dave Nelson were close to the individuals. Larry Spitters and Jim Guzy had, I think, good relations with a lot of lawyers at the firm, including Bob. So for me that was the big case of the seventies. For Bob it lasted for a couple years.

Raven: It was a great experience for you.

*Reid Bros. Logging Co. v. Ketchikan Pulp Company, 1971-1990*

Doten: For Bob it was 1974 or 1975 and the first half of 1976. But then I was going to mention *Reid Brothers*, which was tried in 1980 in Seattle. You may have dealt with that one. You had Peter [Pfister] and Kathy [Bagdonas], Preston [Moore] was up there, and Bill Alsup.

Raven: Yes, we had a huge crew. Bill Alsup.

Doten: You may have dealt with that case.

Hicke: Why don't you tell us about your—

Doten: Well, I went up there and participated with others to work on the trial.

Raven: What's that name of—he's now a judge?

Doten: Bill Dwyer.

Raven: Bill Dwyer.

Doten: The plaintiffs' lawyers.

- Raven: Bill's in bad shape now, I understand, he goes around in a wheelchair.
- Doten: That's terrible. I can't remember the name of the woman judge right now.
- Raven: Rothstein, Barbara Rothstein.
- Doten: Barbara Rothstein.
- Raven: Her first trial in the federal courts.
- Doten: She was just appointed, and we had anticipated that case would be way off, but she was appointed, so she set the pace for trial, and so Bob and Peter Pfister were in court dealing with the plaintiffs' case. A lot of these other people, Peter, Bill, Preston, Kathy and I were working on the defense separately—
- Bennett: Getting the defense case ready.
- Doten: —getting the defense case ready. And so that was how it was handled.
- Raven: I remember when I went up with all of you. *[laughter]*
- Doten: Yes, we were really caught short in terms of our preparation.
- Raven: Did the judge want to go, too—She didn't have anything to do. She moved a couple of benches.
- Doten: By having a whole separate crew on the defense, we were able to bring the defense along quite well, so that by the time the plaintiff rested, we were ready.
- Raven: Good plaintiffs' lawyer. He's now been a judge for years up there, just a hell of a lawyer.
- Doten: Dwyer?
- Raven: Yes. God, he was a good—I had it settled one time. I went over and tried, I went over with Bill, I came back, and none of the Morrison people would talk to him. Were you there yet?

- Doten: I can't remember now. Well, it was a case where the Reid Brothers claimed that they were basically put out of business by our client, which was one of the two pulp companies.
- Raven: This all came out of Alaska.
- Doten: Ketchikan Pulp. The other company was owned by Japanese. It was claimed that those two companies conspired to put Reid Brothers out of business.
- Raven: Were you there when that guy was on the stand?
- Doten: We had colorful documents.
- Bennett: Yes.
- Doten: Said, "Let's talk to the Japanese." And some of the—Art Brooks—
- Raven: Art Brooks. *[Cross talk/laughter about Art Brooks, difficult to decipher]*  
That was a huge apparition.
- Bennett: This guy had written about thirteen terrible documents.
- Doten: One could assume from those documents that the defendants were guilty.
- Raven: Brooks had a lawyer who came from that Portland firm. Great big guy. Kind of looked out for him.
- Doten: I don't remember now.
- Bennett: There was a fellow with the Japanese company, too, of whom Peter was quite fond. What was his name?
- Raven: Yes.
- Bennett: He was an older guy.
- Doten: Yes, I remember. I can't remember his name. Dick somebody? *[Richard White]* I forget.
- Raven: Where did he come from? *[several answer at once]*

- Doten: Seattle; Astra or something like that. A Seattle firm.
- Raven: He was a little, short guy.
- Doten: He and Bob were the main courtroom entertainment.
- Bennett: Was his name, White?
- Doten: Richard White.
- Bennett: Exactly right.
- Raven: White would go careening around the room taking a deposition. I remember he'd be careening off the walls. But he had some pretty good thoughts. I mean, he wasn't any dummy.
- Doten: Probably was a good counterfoil for Bob in the courtroom. But the case, in a sense, was lost. But I remember when Judge Rothstein read her—
- Raven: Her opinion wasn't lost.
- Doten: Dwyer just about fell off his chair, because everybody in his firm was there for the reading of the verdict—
- Raven: Oh, yes, he couldn't believe it.
- Doten: And he was expecting just a huge award. And the award was something like \$145,000. Trebled.
- Raven: We tried to have a terrible look, you know, but—*[laughter]*
- Bennett: Give me a check! Give me a check! "Could we satisfy the judgment today, judge?"
- Doten: I think the trial started in August, the beginning of August, and it went to the middle of November.
- Raven: But the great thing about that case was the time we spent in Alaska.
- Doten: Okay, which I didn't participate in.
- Raven: See, their mill was up there, our client's mill was up there.

- Hicke: Where in Alaska?
- Raven: Ketchikan, down in the lower part. A lot of time in Ketchikan.
- Bennett: I went there, when I was asked to go up and do something very specific and discreet. I spent a couple of days in Ketchikan.
- Raven: How did you like Ketchikan?
- Bennett: Well, by the second day I was ready to get out. There's not a lot. It was summertime, so it didn't get dark until two o'clock in the morning. You had nothing to do in the place.
- Raven: Some good bars!
- Bennett: There were bars. And that was about it. It's an island. You could go up, and if you want to feel island-bound—if you live up there, you're an outdoorsman, of course, you have your planes and boats and everything.
- Raven: Did you ever see any of those, no reason you would, but I've been down in a place where they ship them over to Japan, the logs that our client was sending to Japan? These beautiful logs.
- Bennett: No.
- Raven: You know, they couldn't send a whole log, so they would take a slab off the sides. [*mumbled cross-talk*] But just beautiful. What kind of wood, it was some, what would be a tree that you would—
- Bennett: What did they grow up there?
- Doten: Was it cottonwood, or something like that?
- Raven: No, it wasn't cottonwood. It's good—
- Doten: They made pulp out of that.
- Raven: Like an oak tree, but I don't think they were oak trees. They've been there for years. It was like going over here—
- Bennett: Some giant pine conifer up there in all that terrain?

Hicke: Pine or fir or something?

Raven: It was like going over and cutting these redwood trees. That's how it struck me. And way off, they'd have a high line that would go way out, and the shippers would have to set the logs back there. Then they'd bring them in on a high line. Did you ever get up to that?

Doten: I never got to Alaska. I just came on the trial.

Raven: That was a great thing.

Bennett: I used to take my kids every year, we've got YMCA, they have this Indian guides thing which the YMCA promotes; it's like Boy Scouts. They promote the fathers. And we go down, there's a YMCA youth camp, for San Francisco YMCA, just south of La Honda.

Raven: Oh, yes.

Bennett: And it's set in this beautiful grove of redwoods. If you hike over from the main area, go over a hill, there's some great redwood stands up there. But then, we were eating, we eat in this, looks like kind of a lodge, it's a very primitive place, and they explain, this is an old saw mill. This is an old logging camp here. You're eating in what used to be, they were just cutting, through the early 20th century, there was a big logging industry, cutting down all these redwood trees, right in the coastal mountains.

Raven: These weren't redwood trees in Alaska, but they were like them, as far as, oh, gosh, I'll think of what they are.

Doten: More about the timber case. I think Bob was the main one in the courtroom. Bob was in the courtroom every day from beginning to end, really sort of *[cross-talk]*

Raven: —familiar with the case.

Doten: And Bob was, I think, very influential with the judge, because Bob was a complete gentleman and so on. I remember getting in the elevator with the judge, and Bob wouldn't allow any of us to say anything while the judge was in the elevator, whereas I think, many people would take the opportunity to get friendly with the judge. Bob was very gentlemanly, and I think that influenced the judge, her opinion of the case.

Bennett: When did you try that case—in 1980?

Doten: 1980.

Bennett: I went up and tried a case in Seattle in 1981 or, no, it was later than that. For some reason I was up in Seattle within about six months of the time of you guys to try that case, I think for a deposition or something. So I went to stay at that same hotel you were at. Wasn't it like a Park, Hilton, Hyatt or—

Doten: I think it was a Park Hyatt.

Bennett: Park Hyatt. I got in late, and the guy at the desk says, "Well, I'm sorry, we don't have a room for you; we overbooked." And I said, "I'm from Morrison & Foerster, I understand we have a whole floor up in this place for about three months." And he says, "Morrison & Foerster? Bob Raven! Peter Pfister, Preston Moore, Kathy Bagdonas." "No," I said, "Dave Johnson." And the guy said, "Oh, Mr. Johnson! *[cross-talk, laughter]* No problem. Okay, sure."

Hicke: He was a paralegal?

Bennett: Yes.

Raven: He was more than a paralegal. Boy, he knew everything that was happening. *[cross-talk]*

Bennett: But, I heard stories about how he would cater every, you had to have incredible—

Raven: Oh, listen, he lived high on the hog. *[cross-talk]* What was our client's name?

Bennett: Harry Merlo?

Raven: Harry Merlo!

Doten: He was the president—

Raven: I remember Harry Merlo would come up there—and he hasn't seen the whole layout first—he came up there just before the trial—*[laughing while talking]*

Hicke: He was paying for it?

Raven: Well, he said, "This case won't take long!"

Doten: The billing arrangement was such that they were to pay at the end of each month based on estimates, then they were supposed to get the bill within 10 days or something like that. The estimates are something like \$300,000, we'd say, we think it's about \$300,000 for this month. And so they'd send the money. Everyone was so busy, we didn't want to spend a lot of time working on the bill!

Raven: I think Harry was really kind of intrigued with our firm. I think he said, "Boy, this is—talk about cutting these logs."

Doten: One of the things you did, Bob, was prepare him for his examination.

Raven: And he was very good, wasn't he?

Doten: I think in the end he was. I think you were very nervous about him.

Raven: Oh, I was always nervous! I thought he might tell the judge, "That's nonsense," if she asked him some questions.

Hicke: How did you bring him along?

Raven: Well, we were—

Hicke: Just constant preparation—

Raven: Harry's a pretty savvy guy. I think he watched a few days, and thought, God, this is a different thing!

Doten: He had to kind of learn the process. As a CEO, he was always in charge, but in the courtroom, he wouldn't be in charge. I remember Harry told me, remember, we, for awhile there, before we settled it, we were pretending we were going to have an appeal before the court of appeals, and Harry said to me, "Bob, tell me a little about this court of appeals!" He said, "What kind of a jury do you have there?" Well, you don't have a jury. Three judges, or two judges. I loved Harry Merlo.

Bennett: Did they try to appeal the damages?

- Raven: They did appeal, didn't they? In fact, didn't we argue that?
- Doten: I can't remember now.
- Bennett: \$445,000 for—?
- Doten: —something like that to be trebled.
- Bennett: Judge claimed you gave him \$145,000? Unbelievable!
- Raven: You couldn't believe Bill Dwyer and his group, you know they were all there that day. And when she announced the thing—
- Bennett: —damage experts—Clifford—
- Doten: Kupperberg was one of—
- Raven: I couldn't resist it, I said, "Well, Bill, we'll see you in the court of appeals!"
- Hicke: They had to re-cork their champagne!
- Bennett: They had to go get a different brand, at least.
- Doten: The number's probably not exact, but it's in that range.
- Bennett: Yes, I remember it was very, it was like—
- Doten: Maybe 151, but something unbelievably small, for that length of trial.
- Raven: Every time I used to see Bill—in fact, what were we doing one time, we were back in Washington together, some big function—he always talked about our gang. "Raven, you had quite a gang there."
- Doten: This list was generated when I had my name in as a judicial nominee, and Judith McKelvey was investigating me, and Dwyer gave her a very strong recommendation.
- Raven: Oh, I'll bet he did, yes. Dwyer liked the firm very much. He liked us all.
- Doten: I don't know that he could remember me that much. But Judy told me that he [*cross-talk*]. She was investigating on behalf of the state bar when my name was in front of it.

Raven: That's right, that's when she was—then she became president of the state bar.

Doten: After that, I think. A year after that.

Raven: Or, city bar, rather. City bar, she became president of.

Bennett: She was never president of the state bar.

Doten: Excuse me. San Francisco. City of San Francisco. But she was investigating me on behalf of the state committee.

Chuck E. Cheese, Early 1980s

Bennett: Bob, do you remember the Chuck E. Cheese case?

Hicke: Was [Joseph] Alioto on that?

Bennett: No, I don't think so. Bruce Monroe. Hopkins & Carley.

Raven: Yes, that was the firm that had it. And what was the character that—

Bennett: Bill Brock was our client. The Topeka Inns Management, or, it was the Holiday Inn franchisee?

Raven: From Kansas—

Bennett: Yes, from Kansas.

Doten: Nowland Bushnell was on the other side.

Bennett: Bushnell was the other side. Bushnell founded Chuck E. Cheese.

Hicke: Tell me how this evolved. What were the—

Bennett: Chuck E. Cheese was suing our client. Bushnell had started these Chuck E. Cheese outfits.

Hicke: And your client was?

Bennett: Our guy was a Holiday Inn manager from Topeka, Kansas.

Raven: Yes, he owned the Holiday Inn.

- Bennett: Didn't he have a joint venture agreement with, I think Bushnell, and he signed a joint venture agreement?
- Raven: I think they did have.
- Bennett: He would develop a certain geographic area of the United States.
- Raven: Arkansas. They had one in Louisiana.
- Bennett: He would take Bushnell's characters and whatever. You ever been in a Chuck E. Cheese?
- Hicke: I've driven by one.
- Bennett: Well, if you go, it's really one of the stupidest things ever. They have these robotic animals: teddy bears, rats —
- Doten: It was a big deal at the time, you know.
- Bennett: It's a big deal. The concept was, you combine pizza and these things, and parents can take their kids there and let them—It was like—having had small kids, and I realize, there's hardly any place you can take your kids and let them yell, and you can have a beer, it's, you know, unique.
- Raven: It's a great place for kids.
- Hicke: What year?
- Bennett: This was the early '80s, I think. Anyway, our guy had entered this joint venture agreement, and then, his story was, he'd gone down to Disney World in Florida, and he'd seen Disney's animation, which put Bushnell's to shame. And he investigated, and he found the guy who actually was making Disney's animation, and the guy says, "Oh, I can do it for you too. Disney's got no hold on me." So, he called up Bushnell and says, "I don't need you, I'm going to get my own animation, and you didn't invent pizza, certainly." So Bushnell sued him, saying he'd stolen his idea. We settled that case.
- Raven: Yes, now, you think the guy's name down the Peninsula was—
- Bennett: Bruce Monroe. Oh, Bushnell was the guy who was the owner.

Raven: Nowland Bushnell.

Doten: That company was not the plaintiff, though. Bushnell was sort of in the background.

Bennett: I think, he had an interest in the—

Raven: Oh, yes, he had a big interest.

Bennett: —concept. But he had a big stake in Chuck E. Cheese.

Doten: That wasn't, he wasn't—

Raven: There's a different Bushnell, though, and I kept thinking of that name as different, a little different name.

Bennett: He invented the game *Pong*. The first video game. He owned Atari. Didn't he own Atari, A-T-A-R-I?

Raven: I think so. I didn't know he had an easy name like Bushnell, but maybe you're right.

Hicke: How did he come to you?

Bennett: Brock came to Bob. I don't know how he found us.

Raven: Yes. You know, I don't even remember.

Bennett: I know how they did it. He was represented by Peter Osteroff—

Raven: Oh, yes, he was the guy that recommended he come to me.

Bennett: —with Dick Mainland, or Dick—there were two guys; they'd been in a firm that split up down there.

Raven: Yes.

Bennett: And they were—

Raven: They didn't think they could handle it.

Bennett: They didn't think they could handle it, and they were getting beaten too, I think. Or [Judge] Schnacke didn't like their case. They were looking for an opportunity to bail out and get it taken—

Raven: That's right, they didn't.

Bennett: Osteroff's a very prominent lawyer.

Hicke: Did it have to do with a local franchise?

Bennett: The case was filed here. It was national, the dispute involved national operations, but the suit was filed here in San Francisco, because that's where the plaintiff was located.

Doten: At that time, Chuck E. Cheese franchises were very successful.

Bennett: Hugely successful.

Doten: Doing very well.

Raven: A lot of them are open yet.

Bennett: They're still around, but—

Raven: You go up there to Sacramento, and you'll see them on the way up the highway.

Bennett: They went public, then they crashed, they went bankrupt. I think they had securities suits, and—Monroe, the guy, do you remember Bruce Monroe? He was at Hopkins & Carley. He was a big pain in the butt negotiating the settlement. He was a real slippery guy.

Raven: Yes.

Bennett: He's kind of become a nemesis of the firm in some other things.

Raven: Yes, I remember, I never liked the guy.

Bennett: Barry Sandals just beat him in some case. Barry called me. He didn't really need any help, but he ended up getting summary judgment in front of Judge Fogel in some case where Monroe turned down a couple hundred thousand bucks, the case was worth less than that, and he got zero.

- Raven: These were all pretty good-sized cases we've been talking about.
- Bennett: Yes, that was a big case.
- Hicke: Are you talking about size of the final dollar amount?
- Bennett: No, size of the—
- Hicke: Or the time involved, or—
- Bennett: Time involved, the exposure, the effort that went on here within the firm, the number of people that worked on the cases. Probably all these cases we've been talking about had at least ten people working on them at any one time.
- Raven: Didn't they get it settled by the judge I liked so much?
- Bennett: Lynch.
- Raven: Lynch. Didn't Lynch finally settle it?
- Bennett: Yes. I think Lynch did settle that. I think he did. I don't think I was there for the settlement.
- Raven: Yes. I know that Lynch settled it. He was a good judge. Yes, we finally settled it. He liked the client, too. The client was a great football fan.
- Bennett: Could have been.
- Raven: I think so, yes.
- Bennett: Probably. Didn't know. I didn't deal with the client much.
- Raven: Yes, I think he might have been.
- Bennett: I met him once. He looked like he was right out of central casting. He had perfect—
- Raven: I think he had played football, because Lynch, of course, is an old football player from Santa Clara.
- Bennett: Oh, really? Okay.
- Raven: Yes. He was on the varsity down there.

- Hicke: Did you have something, Stan?
- Doten: I was going to say, the Pacific Plantronics case, was only the two of us. Back in the '60s.
- Hicke: An exception!
- Raven: Who was on the other side?
- Doten: The lead lawyer's name was, I think it was Bob Bennett. It was a Watsonville firm; I don't remember the firm name.
- Raven: Yes. Pretty good lawyer.
- Bennett: The Wyckoff firm down there.
- Doten: Wyckoff, that sounds right.
- Bennett: That's a big firm down there, always has been.
- Doten: He was brought into it because he was supposedly a great trial lawyer. I don't think we had anybody helping us. I think it was basically just the two of us. When we moved down to Santa Cruz for the trial, that was the whole kit and caboodle.
- Raven: It was a nice time of year, as I recall.
- Doten: It was in the fall.
- Raven: Yes, it was nice.
- Doten: September.
- Bennett: Is that the best time of the year down there?
- Doten: September and October. We stayed at the, what was then called the Dream Inn.
- Bennett: I've heard of that place.
- Raven: Once we got that horn assembly back on the steering wheel, we were—
- Bennett: Horn assembly back on the steering wheel?

Raven: It was, Stan, you know. He has very big hands, and I was intrigued by that. We had driven down in his brand new car. When we got to the motel, I looked over, and he was holding the horn assembly in his big hands. He looked astonished that it had come off. I'll never forget the sight of him sitting there with the pieces in his hands and that look on his face.  
*[laughter]*

Savings and Loan Controversy, Early 1990s

Hicke: Do you have more cases that you worked on?

Bennett: The only other one I thought of that was big was the Lincoln Savings case. Remember? Sidley & Austin?

Hicke: Lincoln Savings?

Bennett: We argued in front of [Judge] Bilby in Tucson.

Raven: That was a big case.

Bennett: Huge case. The Charlie Keating debacle.

Hicke: Tell me about that.

Bennett: I guess it would have been about 1990, '91, early '90s, the savings and loan scandal, Charlie Keating. There were all sorts of civil lawsuits over that debacle. He was sued by the folks who bought bonds, I think, in the parent company, bonds or stock, I forget which. Then also the government was suing.

Raven: We were brought in, weren't we, by the Chicago firm?

Bennett: Sidley & Austin.

Raven: Sidley & Austin brought us in. Yes.

Bennett: Let me mention to you Blair White. His son is a neighbor of mine. His kids are—

Raven: Do you know, is Blair still alive over there? Blair, the last I heard, was very ill.

- Bennett: Yes, he's alive. He's down in Florida. He lives in Florida now.
- Raven: God, he was a good lawyer.
- Bennett: Yes. His son's a really great guy. His son is at Pillsbury.
- Raven: Tell him hello for me if you see him, and tell him to call his father.
- Bennett: Yes. He's a big, tall, good-looking guy.
- Raven: Blair was a big, pretty good-sized guy.
- Bennett: Six-three, six-four.
- Raven: As I recall [Jim] Brosnahan and I went down, and I argued that in—
- Bennett: Phoenix? We may have argued in Phoenix the first time we went down.
- Hicke: Who was the client? Lincoln Savings?
- Bennett: No, the client was the law firm of Sidley & Austin. Chicago-based, national firm. One of their Washington partners had done some work for Keating's institution. She tried to help him deal with the bank board, which was after him, with hindsight quite appropriately. And she'd actually claimed to have had some success in getting them to temporize or moderate their position and hold off from taking disciplinary or regulatory action against him. And then, with hindsight, people would come in and say, Well, if you had stayed out of the way of these regulators and let them do their job, this guy would have been shut down two years earlier and the losses would have been billions of dollars less.
- Raven: Yes.
- Hicke: And so—
- Bennett: They were suing everybody. They sued a number of law firms. They sued every accountant who'd ever done any work for him. They sued the investment bankers. They sued Lexicon, the consulting firm.
- Hicke: Sidley & Austin did the suing?

- Bennett: No, no, no. Sidley & Austin was our defendant; the plaintiffs' lawyers were Milberg Weiss, Joe Cotchett —
- Raven: Joe Cotchett was the big one on the other side.
- Bennett: All these guys.
- Hicke: Okay, so just plaintiffs' lawyers, not a firm. Who were the plaintiffs?
- Bennett: Bondholders. The public, basically. It's like a class action.
- Hicke: Yes.
- Bennett: I think it was a class action.
- Raven: Joe Cotchett was a class action. *[laughs]*
- Hicke: And where did Lincoln Savings come in?
- Bennett: Lincoln Savings was a federally insured savings & loan association, which Charlie Keating controlled through a parent company. The allegation was, he siphoned money from it continuously to underwrite and finance very speculative and dangerous real estate developments and ventures of various sorts, including subdivisions in Arizona, including the Phoenician Hotel down in Scottsdale, which cost about half a billion dollars to build and had an occupancy rate of about 90 percent.
- Raven: He's out right now, isn't he?
- Bennett: He's out, but they're going to re-try him.
- Raven: They're going to put him back.
- Bennett: They want to re-try him.
- Raven: What's the other guy, the lawyer, I think they want to re-try too? Was that his lawyer?
- Bennett: I forget, I'm not sure.
- Raven: A couple of them, I think.

- Bennett: Could be. There were some lawyers who were—
- Raven: There was a lawyer who was out of the Chicago firm, I think.
- Bennett: Could be.
- Hicke: Sidley & Austin asked you to defend them against the suit?
- Raven: Yes.
- Bennett: Yes.
- Hicke: And so, what happened?
- Bennett: The case was ultimately settled on very favorable terms for our client. It got to the point where the judge in the case made it clear he wasn't—there are ways you can get out of the cases before trial, summary judgment if there's no loss, such that you shouldn't be liable under any set of circumstances, and the judge is supposed to throw the case out. And truth be known, he probably should have thrown these cases out against our client and many others. But he made it clear he wasn't going to do it. His attitude was, You either settle or you run the risk of a trial. And the trial, everybody was looking at a potential liability of a billion dollars. Nobody could afford to go to trial. Because if you got hit for a billion dollars, you couldn't bond it, there's nothing you could do.
- Raven: The judge was a federal judge from Arizona, Bilby.
- Bennett: Who just passed away.
- Raven: Oh, yes, court of appeals, wasn't he in the Ninth Circuit for a while?
- Bennett: I don't know. He might have. I don't remember that.
- Raven: Tough guy, though.
- Bennett: Tough guy. He was. I remember that when he sat on the bench, he never wore a robe. Every pre-trial thing he decided in these cases, he never wore a robe, he always came out in a sport coat. Really relaxed looking. And then it became clear to me what would happen after awhile. If you went up and said anything, he would punish you. He would say something that would put your case back, your cause back about \$50 million. Say, "Well, I'm not

sure about that, Mr. Bennett. Have you thought about—why couldn't the plaintiffs prevail on this theory against your client?" And he'd spin out a big *[mocking surprise, deep in-breath with feeling]*.

Raven: You had to be very careful with him.

Bennett: Very careful.

Raven: I went through that one time.

[End Tape 18, Side A]

[Begin Tape 18, Side B]

Bennett: I think he bailed on those at the end.

Raven: He'd been in a lot of big cases. You guys have refreshed me a little bit, boy. We had some really interesting cases, didn't we?

Doten: Yes, we did. We certainly did.

Bennett: They were very interesting, you know?

Raven: You came up to Seattle on that one for awhile?

Bennett: Never for the trial. Actually, I don't remember what it was I was enlisted to do, go up and cover some deposition. I think it was like interview somebody. I had to go to Ketchikan.

Raven: Who did we have up there? We had Kathy, the other Kathy, Kathy Bagdonas.

Doten: Peter [Pfister], Preston [Moore], Steve Dunham was on leave from the University of Minnesota.

Raven: Now he stayed with us awhile.

Doten: He was there during the summer.

Bennett: How long was the trial?

Doten: Started in August; was over about November 15.

- Bennett: Wow! Was that continuous?
- Raven: That was a pretty long trial, yes.
- Bennett: Why did it take so long for it to end?
- Raven: Well, there was a lot of festive—
- Bennett: Those documents, why did the plaintiffs want a week to make out their case?
- Raven: Preston probably had them delivered. He did a tremendous job on all the damages and that kind of stuff. He did a tremendous job.
- Bennett: I guess so.
- Doten: Remember the expert? Our expert was on the stand for more than a week. I can't remember the name now.
- Bennett: Economist?
- Doten: There were three separate assistants for different parts of the case. It was a huge production.
- Hicke: What kind of an expert?
- Doten: On the damage calculations, an economist, I think.
- Raven: This family, I keep looking in the Alaska magazine to see if the husband and wife, whether they died, because they were pretty old even at that time. Ever since then I've been checking that column, and I never—
- Bennett: The Reid family was the plaintiffs?
- Doten: I can't remember that. You are probably talking about the people who are client contact.
- Raven: I'm not talking about our client, I'm talking about his client.
- Doten: The Reids?
- Raven: But they were running long in years at that time, weren't they?

Doten: They were; I think one was about 70.

Raven: They lived in Alaska then. Of course they may have moved down by then.

Doten: I think he was about 70. I took her deposition. Mrs. Reid's deposition.

Raven: Yes.

Doten: And she was keeping some of the books there.

Raven: Yes, that's right.

Doten: And they had a calculation where she was the subject of cross-examination, and she didn't do very well, as I recall. Dick White—

Raven: Dick White.

Bennett: Dick, that was his name.

*[Many voices speaking simultaneously]*

Raven: —bounce off all of these walls. He never sat down. I don't know if he had a balance problem or what, but he'd go careening off the wall. It was kind of fun to watch. Maybe that was a device, I don't know.

Bennett: A distraction.

Raven: Distraction, yes. That's a good law firm. I don't think he's practicing anymore. I heard something recently. But he was going to the office until then. Richard White.

Hicke: Stan, do you have more?

Doten: I don't think so.

Raven: Well, we've done pretty well, I think.

Hicke: Oh, we definitely have.

**A Contemporary Case: Pajaro Valley Flood Victims**

Bennett: Maybe if I told you about the one I'm working on now, I can forget about it. It's a terrible case.

Raven: What are you working on now? Are you working on that one you guys won down along the coast?

Hicke: Let's leave the tape recorder on; this is MoFo history.

Bennett: Monterey—we got a very favorable ruling last Friday.

Raven: Oh, did you?

Bennett: We tried a jury trial on this flooding case, this one up near Watsonville current—

Hicke: Let's start at the beginning.

Bennett: This is just a recent case.

Hicke: That's okay, it's MoFo history.

Bennett: Okay. This is a very good case. We tried the case last summer for the victims, which included business owners, farmers down in the Pajaro Valley of the flood of the Pajaro River in March of '95 which was a big *cause célébré*, because the public and press response and political reaction at the time was that the flood had been caused by failure to properly maintain a flood control project which had been built around that river, years and years ago. The flood control project was allowed to revert to a riparian habitat by the county governments which decided to promote environmentalism, even though they were under express statutory duties to maintain this project, which basically meant they should take a bulldozer every year and go down and just clear it out of silt accumulations. But instead, they got the whole channel, which I guess was filled with sandbars, yew trees and jungle and vegetation. And the water—it just couldn't handle the water. We tried a jury trial last year on issues of jury issues, we had tort claims, government tort claims; I think it was a condition of public property—failure to perform mandatory duty and had various negligent counts against a number of public enemy defendants.

We had one tough issue in the case, which was that the design capacity of this project was 19,000 cubic ft./sec., and the storm was 21,000 cubic ft./sec. and the Supreme Court case said that if a storm exceeds the design of the project, there can be no liability, because public entities can't be held responsible for not providing for a larger event. But we said the 19,000 was

worth three feet of freeboard on the levees. The design plan was that in a 19,000-cubic-foot storm you've still got three feet of untouched freeboard which would be available to handle "short term surges or variations of flow," and that's what, in fact, what 21,000 readings were. So we persuaded the jury that we should prevail.

Doten: The three feet were not there, it sounds like.

Bennett: That's right, 19,000 overtopped. 19,000 caused it to go over the top. So, anyway, we got a very favorable jury verdict. The judge gave the defendant very favorable defense instructions at the end of the case; a very favorable verdict. He threw all this at us, literally as and after we had argued the case. Right before argument, he sort of flip-flops: I'm going to give them this instruction they want on design capacity, which we didn't think he should give on the tort claims. We just thought it should be substantial factor causation, and then he gave them a special verdict form for the design capacity. I think he felt we were going to win the case, and he just wanted us to—and we did accommodate.

And then last week he ruled on inverse condemnation, which was separate. He tried that as the trier of fact on the same record, and he ruled in our favor on all scores there, and I think that that decision, I don't think they've got a chance. *[unintelligible]* So maybe they'll pay. Bottom line for our clients, there was \$15 million involved, and there is \$30 to \$40 million involved for *[unintelligible]*. But we had this one on a pure contingency, so—I'm surprised to hear we only had a million and a half of the Memorex case because just working with three people on this case, we've got a million and a half in this case today.

Raven: A big difference.

Bennett: Yes, it's unbelievable. This has just been sort of a band-aid operation. I did most of it myself. I had a couple of associates work very hard on it, but that was it. That's unbelievable. Today, you would have had \$6 million at least. I remember that effort. I remember being on that floor down there with all those contract lawyers.

Hicke: Stan, tell me what you are doing right now, since we're going to get contemporary history.

Doten: I retired the first of the year, so I'm doing nothing.

- Bennett: He looks too young to be retired.
- Hicke: I think so too.
- Doten: Last month I was pretty busy because I was working at Stanford at something called the Advocacy Skills Workshop, which is a wonderful program between the semesters that the students do. But that was just in January, so this month I'm just taking it easy so far.
- Raven: Does Mary teach down there?
- Doten: She doesn't, but that's the kind of thing that she does.
- Bennett: Doesn't she teach mediation or something at Stanford now? I thought she was on the faculty there. Not advocacy, but maybe mediation.
- Raven: Stan, when did you come with us, again?
- Doten: March of 1965.
- Hicke: Without making Bob blush too much, could you each tell me what you think Bob's contributions have been to the firm and to San Francisco history?
- Doten: Well, of course Bob was tremendously influential in terms of the work inside the firm, in terms of ensuring the quality of the work and bringing people along and satisfying the clients, but in addition he was very important in the community with his outside activities, particularly with the local bars, the San Francisco bar, the state bar, and the national bar. He was extremely important on issues like judicial appointments in the federal system. I think all of that was helpful to the firm, but also separately was very beneficial to the whole country. So that's the way I would summarize it.
- Hicke: Jim?
- Bennett: I want to second what Stan said about the community and public. Bob always built the firm to what it is today, and largely through handling all these big cases he *[unintelligible]*. You just heard the tip of the iceberg. Fifty cases of this magnitude demonstrate what he has accomplished. Clearly he took the firm into this level of handling these huge cases and has trained scores and scores of lawyers around here, all of whom try to imitate

him today. I think the best thing about Bob is you never hear anybody in this firm who worked here with him, nobody has a bad word to say about him. Truth be known, that's quite a feat. I can't think of anybody else here where I couldn't—I would know where to go to find a bad word for, you know, a lot of good people. But I couldn't find a bad word about Bob.

Doten: He's held this place together with his personality, his humanness, and he's been the best role model you can have for that.

Hicke: Thank you both very much.

[End Tape 18, Side B]

**XI. RECOLLECTIONS WITH MELVIN R. GOLDMAN**

Interview #9: February 17, 1999

[Begin Tape 19, Side A]

**Goldman Joins the Firm**

- Hicke: I'm going to turn the tape on here and just ask Mel to tell me a little bit about when you came to the firm and how. Let's get started.
- Goldman: I came to the firm in July of 19—
- Raven: —'65.
- Goldman: —'65.
- Hicke: We've got this to remind you.
- Goldman: I was at Brobeck, Phleger & Harrison, and I was interested in doing antitrust work. I was thinking of moving with my family down to Los Angeles.
- Raven: Right. You were going to join—
- Goldman: I was thinking of joining Harry Swerdlow.
- Raven: Harry Swerdlow.
- Goldman: I can't imagine why I thought about doing it back then.
- Raven: Harry's been upset with me ever since.
- Goldman: I was doing a lot of antitrust work. I stopped by, I knew Marty [L. Martin] Blaha because Marty went to Northwestern Law School, and Marty said, "You really ought to stop by and talk to Bob Raven and Dick Archer, two young up-and-coming." Well really, they were already established by that time, 1965. I guess you were in your forties at that time.
- Raven: I came in 1952.
- Goldman: The firm was going to be growing, and these guys were for the future. So I came over, and I think Bob was the one I spoke to.

Raven: Right. We went in that long room, you know?

Goldman: We spoke, and I think on the basis of that discussion, I thought I'd like to come and work at Morrison. I must have spoken with Dick Archer too at that time.

Raven: I'm sure you did.

Goldman: I know I spoke with Dave Nelson somewhere along the way and maybe John Austin. But I know it was the conversation with Bob that made me think I wanted to come to Morrison & Foerster.

Hicke: What did he do or say that impressed you?

Goldman: Well, I just was impressed—I can recall some of the things he said. I think he stressed even then the ideas that the firm was going to grow and that the firm was very merit-based. It is hard to know, you maybe telescope a lot of things that occurred in the very beginning, but I know that Bob felt very strongly about—back in those days, anti-nepotism was very much on Bob's mind. I came to learn why later, why that was so important to Bob. But I think that Bob was stressing to me the idea that it was a merit-based system at the firm, and that was very appealing to me as well. Bob was young and very charismatic, well known in San Francisco even at that time as a well-established but still up-and-coming rising star.

Hicke: At that point not too many lawyers jumped from one firm to another. Maybe jumped isn't the right word.

Goldman: I was not a partner. I was an associate. My background was I practiced in Chicago for a year and married a woman from San Francisco and came out here. I only interviewed at Heller, Ehrman. I was going to go to work at Heller, Ehrman, actually, and they told me they weren't getting any antitrust work. They were doing trust work but not antitrust work. *[laughter]* This is about Bob, not about me, but I interviewed with Caspar Weinberger, who I think was doing trust work —

Raven: Yes, that's right, he was with Heller at the time.

Goldman: And there were some nice people there, but I really wasn't interested in doing that. I was interested in doing antitrust work, and Brobeck was working on the same antitrust electrical conspiracy—antitrust cases for the

same client, Westinghouse, as my Chicago firm was. I was with Kirkland & Ellis, in Chicago, and the partner I worked for there, Hammond [E.] Chaffetz, called up Moses Lasky and said, "You ought to take this guy and have him work on the same cases." I went over there and met with a group of people for about an hour and decided to go there because they had antitrust work.

Raven: With Mose Lasky?

Goldman: Very good work position in the antitrust field.

Hicke: And, of course, Bob was doing antitrust work here.

Goldman: He was, and when I came to work, I didn't start working with Bob. I started working with Dick Archer. Actually I worked with both of them. I think Bob gave me an assignment involving Consolidated Freightways. I think Bob was—

Raven: Dick was doing something with Consolidated [Freightways] . John Austin was too.

### Blumenfeld Theaters, ca. 1967

Goldman: The first thing I worked on that was major when I came was with Dick on *United States v. Schlitz*. Schlitz acquisition of a Canadian brewing company called the Labbat. And that was with Kirkland & Ellis. So I found myself back working with people I knew at Kirkland & Ellis on that case. But very soon after that I began working with Bob on the Blumenfeld Theater cases. Bob had been doing a lot of movie antitrust cases, among other things, and Joe Blumenfeld was the patriarch of a family that owned a number of theaters in Northern California. They were being sued by Syufy, who is well known today. He is now deceased, but the Syufy movie theater chain—and I don't know how much more you want me to talk about that.

Raven: I'm trying to remember where we were on that—

Goldman: Well, where we were defending. This was a suit by Ray Syufy who had started out in the outdoor movie theaters. He had some theaters up in Sacramento.

Raven: And in Walnut Creek.

- Goldman: And also along [Highway] 101 up here. They also had one in San Jose, the Winchester Drive-In Theater I think it was. Maybe he had one more drive-in. The Hilltop Drive-In.
- Raven: Alioto represented Syufy.
- Goldman: Joe Alioto represented them, and the case was getting ready—it had been in progress by the time I came in. Bob took me over to meet Joe Blumenfeld at his offices. I can remember about going over there with Bob, and Joe Blumenfeld had all the faith that Bob would get him out of his predicament.
- Hicke: What was the problem?
- Goldman: Blumenfeld had what were called “hardtop” theaters. Not drive-in theaters. That is, enclosed theaters.
- Hicke: What I would call a movie theater.
- Goldman: They called them hardtops, as opposed to drive-ins. And there were several movie distributors, movie theater companies, called exhibitors like Blumenfeld, who were defendants. The other large one was Fox. Harry Swerdlow, who we were talking about a moment ago, represented them.
- Raven: RKO.
- Goldman: I’m talking about the exhibitors now. Blumenfeld was one of the exhibitor defendants, and Fox was one of the exhibitor defendants.
- Raven: Fox ran all the other theaters. They ran the Paramount. They ran the —
- Goldman: I guess I didn’t realize that.
- Raven: That was where that big case came in.
- Goldman: And then there were movie distributors, the people who distribute the film, like Paramount, Universal, Columbia, MGM. They were all defendants in that case as well. And the claim was that there was a conspiracy among all of the defendants to give first-run films, like *Ben Hur*, to the hardtop theaters on an exclusive basis and only permit the drive-in theaters to get them on a secondary program, runoff.
- Hicke: This is the same sort of problem you had dealt with before.

Raven: On Embassy, yes.

Goldman: These were traditional problems in the movie industry of the playoffs. By the time I met him, Bob was an expert on the reasonableness of the playoff system in the movie industry—that downtown theaters got them first, and after a certain period of time outlying got them later, and then drive-ins after that. And there was a lot of antitrust law about the reasonableness of that playoff system.

Raven: There were some clearances where the single-ownership theater would be 130 days behind the first-time opening and closing. That was a long time.

Hicke: And the drive-in theaters were even farther behind, probably.

Goldman: They were, and the reason and part of the case involved the question, Why were they? Was there a benign explanation for the fact that all movie distributors followed similar patterns of distribution, or was it the result of their getting together and agreeing?

Raven: Well, we had one thing working very much in our favor, if you recall. The government had sued all these film companies. We repeated that, and we were able to use that as part of our proof.

Hicke: Case law was established?

Goldman: I think Syufy's claim was that the distributing companies had acted in parallel fashion. They all had agreed to the same sort of playoff system, and that was part of this proof that it had to be the result of a conspiracy and put the burden on the defendants to show that there were other competitive reasons why the system worked that way. That it was not the result of people getting together. He also had proof of continued communications that went on among the distributors, one with each other. They were all located near each other and they all talked to each other every day, and the proof was that they had the opportunity to conspire.

Hicke: They didn't have any e-mail.

Goldman: They didn't have E-mail, but there were taped telephone calls and —. One of the interesting things about the case was that back then Syufy needed to prove—there were a lot of interesting things and fun things about the case—needed to prove that he had actually requested first-run film for his drive-in

theaters. Back then you needed to—I don't think that's the law today—but he had to show he actually requested it and was turned down in order to have standing to sue. And yet the carbon copies (because you went back to the sixties) of letters could not be matched with the originals. None of the distributors had the originals of what he claimed were his request letters. He had letters going back over a four- or five-year period of time that he had requested, and he said they had ignored him. And none of the distributors had originals of those letters in their files.

Hicke: Did he have their replies?

Goldman: He said they just ignored his request. They wouldn't even deal with him or talk to him. So one of the issues of the case was were these carbon copies bona fide, or were they manufactured for the case? And one of our co-defendants, Allen Littman, whom Bob was good friends with over at Pillsbury, had done a lot of work there, and if Syufy testified, he was going to show that, among other things, the typewriter used for his letters was a current typewriter, not one that existed back on the dates when he had sent those letters.

Hicke: Boy, *Mike Hammer*<sup>34</sup> stuff.

Raven: Who did we send that out to?

Goldman: He got a guy from the postal office who was an expert.

Raven: Oh, yes. I'd forgotten about that.

Goldman: He was also going to show that if you took his letterhead that existed at the time, as he had different letterheads, he would have been typing over his letterhead. So in the end Syufy never did testify. Harry Swerdlow said in his opening statement, "Wait for Syufy. They'll never put him on the stand." And Harry Swerdlow also said in his opening statement that Syufy now was moving into his own hardtop theaters. He was now graduating into hardtop theaters. You probably know he has lots of them today, multiplex theaters.

Raven: Before he died —

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<sup>34</sup> Main character in detective novels by Mickey Spillane.

Goldman: He would certainly want exclusives for those if he could get them. So the trial began, and Bob and I were representing Blumenfeld at the trial before Judge Zirpoli. I don't know when it began, about 1967 or 1968, I'm not quite sure.

Raven: Is that when we went back to New York?

Goldman: I'll explain what happened now. I have to give you the background about the opening statements. At the trial Joe Alioto was doing a terrific job as the lawyer for the plaintiffs. He was a very very good lawyer. There were some very good lawyers on our side, Bob and a number of others, but Alioto was in his prime at the time. He was not very well prepared, but he was in his prime.

Raven: I'd take him on, though.

Goldman: Bob had an idea before the trial that we should take photographs of Syufy's drive-in theaters and also get old newspaper clippings of his advertisements of the pictures he was showing at his drive-in theaters to show why the movie distributors were not willing to give him "Ben Hur" on a first run. And so we went out to an old-line San Francisco photography company, a retail company called Moulin Studios, as I recall. And we went out and took pictures of some of his drive-in theaters. They were out in fields. In those days the drive-ins were out in the sticks.

Raven: You parked your car.

Goldman: Bob wanted to be sure that the jury would get a very good idea of what the drive-ins looked like; so we had pictures of people standing down in drainage ditches with lots of weeds growing everywhere, old decrepit mailboxes outside the theater. We had one big set of photographs of his Bel-Air Drive-In in Sacramento. But we also had—there wasn't Xerox in those days—Bob's idea was to get copies of all these prior movies he'd been showing and the advertisements. They were lurid. He had soft porn movies and salacious kinds of advertising of people, women, and we had rolls and rolls of these. In those days the process, I remember, we had these big sheets of newspaper from the *Sacramento Bee*, but they were rolling up because of the process of, the copies would roll up. We had that, and when Syufy got on the stand we were going to use that against Syufy. Joe Alioto put up a big squawk about the pictures and the advertisements. He said

people must have been standing in drainage ditches taking these pictures, and he was really very upset by it. He was trying to keep all that out.

During the trial Judge Zirpoli concluded that he had unfairly prevented Alioto from getting discovery in the case before the trial began. He had cut him off.

Raven: He had insisted on cutting him off—

Goldman: Specifically, where he cut him off was he wanted to get to discover what the distributors were doing with other theaters in other parts of the country to show that what they were doing here was contrary to what they were doing in other places in the country. Judge Zirpoli had prevented him from getting that part of discovery, and he now decided at the trial that it was not fair for him to have done that, and rather than declare a mistrial, he decided to give Alioto that discovery.

Hicke: Has that ever happened before?

Goldman: It was an unusual—it has. Before that time maybe, it was a very unusual matter, an unusual thing to do. He decided he would have a long Christmas break, and during that period Alioto could go out and take depositions. So Bob and I then went to New York, because that's where the decisions were made by the movie distributors. They had production companies and so forth in Hollywood, but the big decisions have always been made in New York. We went back there for depositions, and we decided that we would take depositions too. But I remember, it is in my mind that we arrived in New York on New Year's Day for those depositions.

Raven: I think that might be, yes.

Goldman: Bob left his briefcase out on the sidewalk at John F. Kennedy Airport, and we got to the rooms, and he had forgotten he'd left his—First Bob went out; we arrived, and it was late at night, and it was cold, and there were no cabs and Bob said—I don't know how he knew it, but I just figured he would know—he said he knew where to go to find the cabs. He went off a distance to where the cabs were. They were parked outside. You had to go there and pay them some money to come in and take you. I don't know how you knew where they were, Bob, but we went out and got a cab. He leaves his briefcase on the sidewalk and didn't realize it until we got to the hotel. So we're in New York, and we figure it is lost, but we got a phone call. Some

Good Samaritan picked it up and brought it in, and we got the briefcase back.

Raven: I'd forgotten about that. What was that place we'd go to eat?

Goldman: I don't think I'd ever been to New York before overnight, but Bob took us to some great restaurants. I bet you can still remember the two restaurants he took me to. One was *something del Sol*, a Mexican or Spanish restaurant (this is 35 years ago) and another one was Keens Chop House, where we had the big thick lamb chops. These were his favorite places. And Luchow's, the German restaurant.

Raven: How'd you like Luchow's?

Goldman: I liked Luchow's. I had the sauerbraten. But at Keens Chop House Bob had a big chop, a mutton chop. So I remember the restaurants we went to. I don't remember where we stayed exactly. But the fascinating thing about that was when we took these depositions, we were taking depositions in the middle of a trial, and we were taking the depositions of Universal Pictures. I remember we were over at Universal, and the guy whose deposition we took said, "Well, Ray Syufy was just in here a couple of weeks ago." After the opening statements he said, "I've got some exclusives with you on my new hardtop." He had his new hardtop in San Francisco. I think his first hardtop is still there. On Chestnut Street. We used to live around there. I don't remember the name.

Raven: He had one down in this ritzy area down by the bridge too, you know.

Goldman: And he said to the Universal people, "I've got some contracts with you for exclusives. I've got to break those, because I don't want them to learn that I've got exclusives, because they are saying when I got my hardtops, I'd do the same thing that they're doing."

Hicke: And he told you that in his deposition?

Goldman: He did tell us.

Raven: How did Joe handle that then?

Goldman: I don't remember. Well, we learned that. There was also another thing we learned and that was, right before the trial began, Allen Littman's clients,

MGM and Paramount, settled the case. Bob and I had gone to Allen Littman's house a couple days before for a big celebration about the beginning of the trial, and on the day of the trial Allen Littman came forward and told the judge my clients have settled the case.

Raven: Allen wasn't happy about that.

Goldman: He was one of the leaders in defending and wanted to fight Joe Alioto. Later they became friends. Allen and Joe became friends later. Allen had a good relationship with Joe later.

Raven: Well, he and Edlund, you know, came to Joe's defense.

Goldman: I know, that's one of the things I was thinking about. I don't know if you wanted to get into—

Raven: Oh no.

Goldman: So that settlement had occurred, but with MGM and Paramount and maybe one other agreeing to give him what was called "day and date." That was the name of the distribution policy, and it meant that the same date that a first-run picture like "Ben Hur" opened at a hardtop, it would also open simultaneously at the drive-in. Now, if you see, today the drive-ins do get first-run film, and they open at the same time that other theaters open. It was called day and date.

Hicke: And this was the first time this happened?

Goldman: It was a breakthrough, and it was through a settlement and by virtue of the trial break that we talked about and discovery occurring in the middle of trial; what we learned was how that settlement occurred. Joe Alioto had come to New York and had met at the New York Bar Association. The NYBA had a lounge, and he met with the lawyers from Paramount, MGM and someone else, and they agreed on the settlement. Alioto had to go from one to the other. And each agreed that they would settle on that basis if the other settled on that basis.

Raven: Oh, that's right. They all settled out.

Goldman: So when we came back, Bob and I filed a new complaint on behalf of Blumenfeld Theaters against MGM, Paramount, whoever else settled, on the

basis that they had conspired with Syufy to give him day and date. In other words, if it is illegal to conspire to prevent him from getting day and date, getting openings in the drive-in theaters, it was also illegal for them to join together and agree to give it to him.

Hicke: Wasn't it something that—

Goldman: A settlement. But we researched that, and you can't have an illegal conspiracy under the guise of a settlement. The settlement doesn't make an illegal antitrust matter legal if it is illegal. So we sued them back at the court and Littman fought us. He said, "I'm out of this case, judge." Judge Zirpoli was a wonderful judge. Bob had a wonderful relationship with Judge Zirpoli. Littman said, "I'm out of here. They can't bring us back in." And the judge said, "Well, I'm not sure why they can't." And then Al Littman said, "But judge, you approved this settlement; so you would be a party to it." He said, "I didn't know anything about this meeting back in New York. Nobody told me about such a meeting back in New York. Don't try to get me involved with this." *[laughter]*

Raven: I remember that now. What was the deal that Alioto made with us then to wipe it all out?

Hicke: Oh, so you then settled?

Goldman: Well, we eventually settled because it was clear that they were never going to put Syufy on the stand. They did everything they could but put Syufy on the stand. They had the goods on him on these request letters. Allen Littman had all kinds of stories about taking hot dogs that were green and boiling them in pink liquid. He had all kinds of bad things about Syufy. But the matter settled, because I think the theaters were now prepared to give him day and date. And I don't know how that worked out for Blumenfeld.

Raven: We got something, though. I forgot what the payoff for us was.

Goldman: Something. I don't remember. I don't remember how that happened. I can remember another episode when Bob was sitting next to Joe Alioto. Our table was right next to him, and Bob's chair was right next to Joe's. They wanted to put on proof that their theaters were not getting these pictures at the same time they were opening at other theaters. And he had to prove it. It was a matter of proof. And so he had to show the actual movie theater

advertisements to show that it had happened. That would have taken a long time to do, so he had an expert do a summary, and a lawyer in Alioto's office named Gary Stoll was responsible for this, the short guy. But they put an expert on the stands to give the summary of all of that to show that they'd been denied, and it got worse and worse. It was a terrible effort on Alioto's part, and it was falling apart, and the guy who was representing Disney was doing that examination, that tall guy that reminded you of—

Raven: That big guy out of New York.

Goldman: You said he looked like he was made out of wood. And Joe—it was just getting terrible, and Joe was just sitting back and rocking in his chair. I was right behind Bob as the second chair, and Bob said to Joe, "Don't you find this embarrassing?" It was at a point where they had a draft of the summary the day before that said "garbage" as of such and such a date. It went from garbage to their final product in one day. So Bob said, "Aren't you embarrassed by this?" And Joe leaned back and said, "Not at all. I'm going to let this come in. I'm not planning to pay for this." He was telling Bob that he wanted this thing to get as bad as it could, because he was never going to pay, because he wanted a record that he shouldn't have to pay for this terrible job these people had done.

Raven: Was that the time when that guy, the big guy from New York, was—

Goldman: Roy something [Roy MacDonald] .

Raven: He'd been a professor in Texas. Hell of a good lawyer. But you remember, didn't he have something, he had a big chart up there, didn't he? Isn't that the time where—

Goldman: This guy was from Donovan Leisure.

Raven: Yes. A very good lawyer.

Goldman: He did all the Disney work.

Raven: I remember they went out—he had his witness on the stand at one time from Disneyland. They went out and went out to lunch, and my God they came back, and they were crying. I said, "What the hell is wrong?" And they said, "We've got to get the judge."

Goldman: [Walt] Disney had died. And I think the judge recessed.

Raven: Hell, he eulogized him. And sent the jury home.

Goldman: Another comment Bob made to me that day. I remember this now. That day they announced that Walt Disney had died, and they made a big statement about it, and Bob said to me, "They're not going to be finished until they have Donald Duck and Mickey Mouse down the aisle here."  
*[laughter]*

Goldman: And Alioto was really upset.

Raven: He was really upset. He walked to the back with Syufy, and I kept saying, "Night, Joe." "Night, Joe." Door opened up. Do you remember Joe and Syufy going out?

Goldman: They stomped out.

Raven: I kept saying "Goodnight, Joe" again and again. Not a word. The door swung open. All at once, "Goodnight, Bob."

Hicke: He poked his head back in?

Raven: Joe was something. I miss him. I really miss him.

Goldman: You always had a good relationship with him. You spoke at his birthday party about five or six years ago, didn't you?

Raven: Yes.

Hicke: He spoke at yours. I saw the video of that.

Goldman: There was a birthday at which you spoke. And Moses Lasky spoke that night.

Raven: Right. That was quite a crew.

Hicke: Did you have anything to do with him as mayor, when he was mayor, or was it pretty much as a lawyer?

Raven: Well, now, I kind of knew him when he was mayor too, because he was doing some things. One of them I was kidding him about. He put all the trees down Market Street—what a great thing that was.

Goldman: He didn't bring this up until much later on in life. He said that our firm was the last firm to represent a guy who held up a stage coach.

Raven: In New Mexico, before it was a state.

Goldman: We represented the last guy who held up a stage coach. Some prestigious law firm we were. Those are some of my thoughts about the Blumenfeld Theaters case.

*Robinson v. Cupples Container*

Raven: What was the other case we had in front of Spencer Williams?

Goldman: *Robinson v. Cupples Container* from the law firm, the Armstrong [Teasdale] firm in St. Louis. You knew someone there, I think. I don't know. You had a relationship with them. You want me to talk about that?

Hicke: Yes, please.

Goldman: That was the trial of a securities case brought by the former president of a company that was acquired by Cupples, and he was promised two or three things that would occur after the merger. One, he would be made president of the company; two, he would get certain stock rights, and I forget the third. But there were three things he said that were promised that were renegeed on. Robinson, who was the plaintiff, suing—. He was not made president, and he said that—this had all occurred in connection with the purchase of his securities, so he claimed it was also a violation of federal securities laws.

Hicke: Some kind of a—

Goldman: Fraud.

Hicke: Yes. He was supposed to get from the company—

Goldman: Right. And that's why he gave up the securities fight. He was defrauded.

Raven: We had a jury.

- Goldman: The jury before Spencer Williams. Pillsbury represented the plaintiff for some reason, and there was a tall fellow there. I forget his name now. It strikes me like—he was in that group with Tony Brown, the products liability group over there. I forget his name.
- Raven: He was a younger guy.
- Goldman: There was another guy at the time. A tall guy with a black mustache, I think. Dyer, but it wasn't Dyer because I know you knew Dyer over there.
- Raven: He left that firm. I'm trying to think who he is.
- Goldman: Nice fellow. He represented Robinson. And we represented Cupples Container.
- Raven: Jury trial.
- Goldman: A jury trial that we won. You were the lead attorney, and I was the second chair.
- Hicke: Do you decide whether it's judge or jury trial?
- Goldman: No. The plaintiff decides. Bob always taught me to check and make sure that the plaintiff had filed their jury demand, because if they didn't, they would waive it.
- Raven: Practically the defendants could do it if the plaintiff didn't want a jury. You'd be suspicious if the plaintiff didn't want a jury. You might think, Well, we want it.
- Goldman: Go back to Blumenfeld for a moment. Bob was my mentor at the firm, has been my mentor at the firm, and I recall that the Blumenfeld Theater case, and no matter where we were—Bob lived in the East Bay in Lafayette, and I lived in San Francisco and later in San Mateo or Hillsborough—no matter where we were out of the firm with a witness or whatever, he always insisted on driving me back to my house, even though it was diametrically opposed to where he was going—home. I always thought that was a very nice thing for him to do.
- Raven: I think I did one time. But I'm just a little hazy on it. I remember you did a tremendous job on that guy, I remember, Spencer Williams —

Goldman: An expert witness. I examined the expert witness.

Raven: Spencer Williams told me the day after the trial was over. He said, "He just started at the top of the guy's head and he went right down to the soles of his shoes." That was that expert.

Goldman: That was a professor from Berkeley in the graduate school of business who was an accountant, and he was testifying on the valuation of businesses, and he really didn't have the expertise for that. So he was in an area he shouldn't have been in, and he was quite vulnerable.

Hicke: So you demolished him?

Goldman: I remember there was an alternate, and he seemed to be sleeping during the trial. When the jury went in to deliberate, we went over and talked to him, the alternate. We were allowed to talk to the alternate, for some reason. It turned out, unbeknownst to us, he was an MBA. We didn't have any information about that on this guy. He was all for us and said he had told the other jurors that if there was a securities violation, the SEC [Securities and Exchange Commission] would have stepped in. Then he proceeded to leave. The jury came back in our favor.

One of the things that happened in that case, I'll remind you: Judge Williams had given us a directed verdict on one of those three claims of what he was lied to—I think the one involving whether he was going to be made president. And Bob and I discussed, Well, isn't this something we want to get across to the jury? The fact that we had won on one of these three claims. Because it shows that the judge had already found that he's not to be believed on that claim, and this would be in our favor. And yet we were precluded from telling the jury the judge had ruled in our favor, because you weren't allowed to say there was a verdict already by the judge. So we decided, anyway this is how I remember it, that we would go as far as we could in inferring to the jury that this had happened. Bob said in his closing statement, "Now you remember when this case began, they told you there were three claims. They are only making two claims now."

Raven: Is that right?

Goldman: This is true, true. But there's a real ironic twist to all of this. When it was all over, we talked to the jurors, and one of them said the reason they ruled in our favor was they thought the strongest claim was the one about his

being made president, and since that was not being given to them, they had thought the judge had already ruled in Mr. Robinson's favor on that claim. That's how I remember it. And therefore, they didn't think much of those two claims, and they thought he was going to win on the first one. So the irony was that the very thing we were trying to tell them had occurred was what caused them to rule in our favor but for a different reason.

Hicke: Oh. Isn't that fabulous?

Goldman: That's how I remember it.

Raven: Was that the last case we were together on?

Goldman: I don't think so. Could be. I use that as an illustration. Could be our last trial. I don't know if it was. Probably was.

Hicke: About what time was this?

Goldman: I don't know.

Hicke: OK. Well, that's in the record, so we don't have to worry about it.

Goldman: I use it as an example of "You never know what a jury is going to do. Or why."

Hicke: How did you find that out? You talked to them afterwards?

Goldman: Well, at least one said that. That's how I remember it. You know, it could be clouded with time, but I felt they ruled in our favor for the wrong reason. One person did, anyway.

Hicke: Well, what he said didn't really make clear why they only had two claims.

Goldman: They concluded that the one that was out they won on. Because they thought it was a good claim. He was supposed to be made president, and then he wasn't.

Raven: I guess that is one of the reasons we were mentioning it.

Goldman: We were mentioning it to show that you couldn't believe this guy because one of his three is already out. The way we thought about it they must conclude that it is out because he took it away.

Hicke: That's terrific.

*Winter v. Anheuser Busch*

Goldman: Another case we worked on was *Winter v. Anheuser Busch*, and that was an antitrust suit against Anheuser Busch by, I think, a distributor. I can't recall what about. I wasn't out there for the trial. Bob tried it.

Hicke: Out where?

Goldman: In federal court here in San Francisco.

Raven: Who was the judge we had on that?

Goldman: [Samuel] Conti.

Raven: Oh, we had Conti. Pfister ought to know something about that.

Goldman: I don't know who was out there with you. Maybe Garrett was there with you.

Raven: I think it was Garrett. It was Garrett.

Goldman: I stayed back, and my job was to read the transcripts, and I worked on a motion for a directed verdict. So I would read the transcripts and write the briefs. And my recollection is that Conti entered a directed verdict.

Hicke: Tell me what the case was about.

Goldman: I can't remember. I think it was a distributor. He was a distributor of Anheuser Busch products. I don't know what he was complaining about.

Hicke: It was an antitrust of some sort?

Goldman: Yes. It was antitrust. It was a big victory. I just can't remember the details.

Raven: Jim Garrett worked with me on it.

Goldman: The judge wrote an opinion. And that proved the case. Judge Conti.

Raven: Yes. Conti. It was Conti. I always got along very well with Conti.

Crocker Land Co.

- Goldman: Well, I think to this day Judge Conti thinks very highly of our firm because of Bob's relationship he had there. Another case I did spend a lot of time with Bob. We had a great time, a lot of fun. It was *State of California v. Crocker Land Co.*
- Hicke: Did they own property up in Napa?
- Goldman: They owned property lots of places, but the property here was along Skyline Blvd. Actually there were two cases we were working on. One was property near where the Nueva Day School is in Hillsborough in the area that is now called Sky Farm. The Crockers had a home there. They bred horses there. But the Crocker Land Co. , there was a taking of their property for Highway 280. The case involved the largest takings of property from one property owner for a highway up to that time. That was where the Serramonte Shopping Center is today. That land was a big piece of land where the confluence of [Highway] 280 and, I think it is Highway 1, joined. As I recall, it was about 400 acres owned by Crocker Land Co.
- Hicke: And Crocker was not suing?
- Goldman: I think what happened was Crocker had purchased the land from a dairy farmer up there called the Christopher Dairy , and old man [George] Christopher was still out there, and he had sold that land to Crocker Land Co. for about \$10,000 per acre.
- Raven: What's the name of the builder that came in there, the old guy?
- Goldman: [Carl] Gellert.
- Raven: Gellert came in there.
- Goldman: That's the name of some of the streets out there. Carl Gellert. And he had a place out on 19th Avenue called Gellert Bros. where Bob and I went a couple of times to see him. But our client was the Crocker Land Co. It was affiliated with the Crocker Bank at the time. At the time Crocker Bank was our largest client by far. Historically it had been our largest client. And Crocker Land Co. was also owned by the same family members. The same family members owned the bank. So the Crockers were very wealthy, and

they had their own bank, and they had their own land company. The fellow who ran the land company was Sherm Eubanks.

Raven: Sherm was the guy that ran it, but who was the head of that stuff? It's good that you remember Sherm Eubanks because he had a lot of—

Goldman: Sherman Eubanks's father had been the groundskeeper at the Hearst Castle, Sherm once told me. Head groundskeeper. I've got a wonderful story to tell you about what happened there.

Raven: Did we try that case?

Goldman: We settled it.

Raven: And he had that good lawyer who is—now he's got the big winery?

Goldman: Jackson?

Raven: Jackson. Kendall-Jackson.

Hicke: Jess [S.] Jackson.

Raven: His winery is Kendall-Jackson.

Goldman: He was representing the State of California on a contingency. I think we did these cases on a contingency basis.

Raven: No, he was the one against the state, like we were.

Goldman: Oh, I remember, the guy who represented the state was one of the big heavy hitters from Sacramento, because there was so much money involved. We were claiming that the acres were worth about \$30,000 an acre. It was a very big amount of money at stake. And a lot of acres being taken.

Hicke: Who was the guy from Sacramento?

Goldman: I don't remember the guy's name, but he came to court, and we were really worried about it. He came in with cowboy boots. He looked like a guy out of the West, and he was rough hewn, like "uh oh." This is a guy that —

Raven: He had a reputation as being a very very good lawyer.

Goldman: He was; you liked the guy. He came in. He was a solid guy. He was going to try the case, and we were concerned about this guy.

Raven: Did we settle it then? We must have.

Goldman: We settled for a lot of money because we had some great—Bob had done a lot of condemnation cases before this, and he knew a number of the appraisers in the area from the other condemnation cases he had been on. I don't know what condemnation cases you'd been on. But Bob had some guys right away that he wanted to talk to. One of them was a guy named Clark down in San Mateo. He had a real estate business, but he was also an appraiser. Bob knew this guy from the past, so we brought him in. We brought in a number of appraisers because there was so much money involved.

Raven: One of them died.

Goldman: We brought in a guy named Dick Heiman, who was a young guy and an up-and-coming star in the appraisal business, expert business. Great, great guy, and he was very bright. And he died later. He was running. He liked to run marathons, and he died of a heart attack.

Hicke: While he was running a marathon?

Goldman: I think while he was running, or just after. I just associate the fact that he was a runner and he died.

Hicke: You must know before these guys testify what their evaluation was going to be?

Goldman: That's part of the nature of the business. You want to bring the appraisers who are going to take your side. So we collected a number of appraisers, and he was going to pick among the ones who he thought would be good on the stand and have strong appraisals and good theories.

Hicke: You don't know?

Goldman: You don't know until you sit down because this is—Bob remembers where Carl Gellert came into play. I'll tell you about that in a moment. And we had another guy that Bob knew who became our traffic expert. Because we were going to show that the land they were taking would have been a

shopping center even if there had been no freeway because you have to value the land as if there is no freeway; that the takings never occurred. And our view was we were not tied down like a lot of other condemnation people—people who do condemnation work on a regular basis by traditional theories. We were being very creative in the ideas we were coming up with. So we said, for example, OK, so there would have been a big shopping center. This Christopher Dairy we had was the last large vacant area in the Bay Area where you could build a large shopping center. There would have been a freeway someday.

Hicke: And it would have been on Highway 1?

Goldman: Right. You are thinking the right way. Where Junipero Serra Blvd. bypasses that area. So we did research on the history of Junipero Serra Blvd. and it turned out that the area alongside of Junipero Serra was owned by the state. When Junipero Serra Blvd. was built, it was meant to be an eight-lane highway all the way down to Palo Alto. You'd see Junipero Serra. You can pick it up all the way down there, and the median strip is trees and shrubs. It was meant to be a modern, for those days, a modern highway, and there was room for expanding it on both sides to add more lanes. We found that out. That the state owned the right of way alongside it, and it could have been expanded. So our theory was they would have expanded Junipero Serra Blvd.—not this taking—not this Highway 280, but if 280 was never built, they'd have to do something, and they would have taken Junipero Serra and expanded it.

Hicke: So no matter what happened, there would have been a shopping mall.

Goldman: But then Bob had one of his favorite appraisers there, I can't remember his name. In addition to this large shopping center—and we were going to have like a 400-acre shopping center. This was an enormous shopping center that was going to be built there, and we were kind of doing it a little bit with tongue in cheek, but as events turned out Serramonte [Shopping Center] is that big and bigger than we ever thought it would be. At the time we were arguing for the largest open-air shopping center ever built in the United States. So we had to bring in all kinds of experts. One of the experts was an appraiser who knew traffic, because how are you going to get all these people, even with Junipero Serra Blvd.? The shopping center is a distance from there. You're also going to have a large subdivision which was built there. Houses. How do you get all of these people in and out of there

through the local access streets? How is that going to happen? How can you have all those people living there, have a shopping center, and move people in and out? And I remember a meeting with this other appraiser that you liked, Bob. It was a younger guy who was kind of a garrulous individual. I just don't remember his name. He was kind of a fancy dresser too. You liked him.

Raven: I know. I used him in other cases.

Goldman: And he says, "Well, the way we're going to do that is with traffic lights." And he had a theory that with the right kind of traffic lights at various intersections we can move everybody in and out. I just don't remember his name.

Then we had another expert, because we were desperate to find uses for all of this land, and we're going to fill up the whole place in order for the taking to be a part of what would have been this gigantic shopping center. We brought in an expert who said we would have had indoor ski jumps. That was a new thing being developed in certain shopping centers, in different places, and he did this with a straight face. And definitely, like you might have a place for climbing the walls today.

And then the most valuable space was called satellite space. That's the space right alongside the shopping center where doctors locate and so forth, and that, per square foot, was worth more. We had the largest satellite area ever, and as things have turned out, they've got even more than we ever envisioned. They did a satellite area across from Serramonte, alongside it. What we argued for then—turned out they didn't have the ski stuff, but it became all that we said it could become in terms of value.

[End Tape 19, Side B]

[Begin Tape 20, Side A]

Hicke: Mel, you said you have a very embarrassing—

Goldman: A very embarrassing episode occurred during that period of time. You have to keep in mind that Crocker was the most important client of our firm. Half of our work back then came from Crocker. If the truth be known, it was a quarter to half at different times; it was just the mainstay of our business. In order to prove up your right to compensation for a taking, there are certain evidentiary requirements, among other things, to show your ownership of

the property, and that requires proving for each acre by grant deed your rights to its ownership. All of the easements that may exist across them and so forth, you have to prove up ownership. We had then moved our offices to Montgomery Street, 120 Montgomery Street. We had been in the old Crocker Building, even where we were was owned by Crocker Land Company, and we were at 120 Montgomery while Crocker Land Company tore down that building and put up a new building that we were going to go back into, because we were always going to be tenants of the Crocker Land Company. So we were over at 120, and we had a war room for this Suburban Land Company.

Raven: Suburban Land Company.

Goldman: This is coming to my mind. Was that Gellert's organization?

Raven: I think it was, yes.

Goldman: So we had in that room, we had all of our documents, original documents we had pulled together to prove up our ownership of each of these acres, there must have been about 15 boxes of documents with all of these things we had gotten from the client and put together in that room. One morning we came back in there, all the boxes were gone.

Raven: Oh, I'd forgotten all about that.

Goldman: I'm going to unfold this for you. And we didn't know where the boxes were. Now, at that time, they were building BART along Montgomery Street. You know what, we must have been in the old Crocker Building, not over at 120 Montgomery. I think we were in the old Crocker Building. I'm pretty sure, we were in the old Crocker Building, and we had the war room there. We didn't know where the boxes were, when we got a phone call from the people.

We got a phone call from the people—where's Market Street? [*looking out the window*—we got a phone call. I can show you where it was from here. There's the Flatiron [building], see where it says Hobart Building? [*pointing*] And I think the building alongside it is the Flatiron Building, I'm not sure, but that building, that yellow one over there —

Hicke: Yes.

Goldman: Well, that was there at the time, and then in the background right behind it is One Post, that gray building, that's where the Crocker Building was, you used to have a picture of it in your office, the old Crocker Building.

Raven: Yes.

Goldman: The old Crocker Building. It was right behind it as you can see, BART runs right down Market Street.

Hicke: Right.

Goldman: And there was a big trench along there. So that day we were looking for the boxes. We got a call from the manager of the Hobart Building saying that his janitor had been sweeping out the lobby and found several grant deeds for property that Crocker Land owned. The original grant deeds that had been in our room the night before.

Well, we reconstructed what had occurred. The janitor had taken all of the boxes out of there because he thought it was meant to be trash. He had put it in, as a practice in San Francisco even to this day, that he put it in bags out in front of the building. That night there was a big storm, and the bags broke open, and all of those original deeds that we had had been blown all over Market Street. We got Bill Berkman, and we got a group of people together, and we went down, and there in the trenches all along Market Street were our grant deeds, and we got into BART trenches to pull out the stuff. What had happened is they had blown down Market into the lobby of the Hobart Building because of the wind blowing around, and that's how we found out where these were.

Raven: I had forgotten all about that.

Goldman: It was quite an embarrassing episode. Bill Berkman was given the task to go out to the garbage dump where they had taken the bags.

Hicke: They were gone? The ones that were still—

Goldman: Still in the bags. No one out at the garbage dump had brought home—

Hicke: That's only funny several decades later, right?

- Goldman: This was a fairly important client, and we had to explain why they had found the original grant deeds while sweeping up in the lobby of their building.
- Raven: I had forgotten all about that.
- Goldman: That's the old Crocker Building. [*pointing to framed photograph*]
- Hicke: Oh, yes, that's the picture. Yes.
- Raven: God, I had forgotten about that. I guess I was glad to cut it out of my mind. I can remember that well now, though.
- Hicke: Did you find then most of them?
- Goldman: We reconstructed it, and then what we didn't have, we went back to the counties and got the rest of it and didn't charge the client for it, obviously. I don't know what we did with the building, of course we couldn't do anything to the building because it was our client as well.
- Raven: Right, yes.
- Goldman: It was quite embarrassing.
- Raven: I probably had to talk to Sherman Eubanks about it. He was still there.
- Goldman: Now Bob, as you probably know by now, there's a lot of John Wayne in Bob. You've probably known that.
- Hicke: Well, he looks —
- Goldman: He looks like Wayne, and he carries a gun like Wayne.
- Hicke: I haven't seen him with a gun.
- Goldman: You haven't heard about the gun?
- Hicke: No, tell me about the gun.
- Goldman: There's different episodes with Bob at his ranch over taking poachers and things and pulling up in his Jeep and running them off, running the rustlers off his place. Bob said, "The thing you have to do in a condemnation case is

like the taking of Serramonte.” This was a big case, this was a very big case. It was the largest taking, I think, in Northern California.

Raven: Lot of money.

Goldman: Lot of money. Bob said, “We have to drive the taking.”

Raven: I forgot about that.

Goldman: What good lawyers do in a condemnation case you see it.

Raven: I think that proved—

Goldman: You have to drive the taking, you have to see—

Hicke: Did you have to take pictures, too? That was his last—

Goldman: I don’t know if you have to take pictures or not, but the idea was to rent the Jeep. We had plans to take the jury out to see it. There’s a jury view in condemnation cases where they go see the land. The problem was that up there in Serramonte it’s foggy nine out of ten days and you don’t want to take a jury out to see the land, but Bob had the idea we were going to have a jury view and we were going to pack them picnic boxes. You were very much in favor of picnic boxes for the jury, and we were going to have to find a good sunny day to get them out there to see the land. Well, anyway, we got the Jeep, and we were out driving 280, where 280 is was just a roadbed, and it was rough, it was just dirt. I don’t remember Bob having more fun, you know. Bob was having a glorious time in that Jeep driving over the rough terrain, and I, as my usual second seat, was along there, alongside of Bob driving around.

Raven: Who was the guy over at Crocker, the guy that was really in charge, the nice older guy? We talked to him once in a while.

Goldman: I can’t think of his name. You’re taking about the guy Eubanks worked for?

Raven: Yes. Exactly.

Goldman: I can’t remember his name, he was an old chap. [Bill Morton]

Raven: Yes.

- Goldman: Well, that's what made me remember, too, when we did this other condemnation case which is where Nueva Day School, the Sky Farm, which was the Crocker family's land that they were taking. We also did a view in a Jeep, and there we had to go down. Bob, that was more fun, going down through these trees. I don't know, I could not figure out why we had to do this, and why we had to see this, but it was kind of fun to get away from the office and do something different.
- Raven: Did we do that?
- Goldman: I couldn't see how that helped us a whole lot. Yes, we did a run down to the Sky Farm. Well, it was a taking.
- Raven: Who was the lady that owned that place?
- Goldman: It was one of the Crockers; they had their home there. They had a big, big home.
- Raven: Beautiful place.
- Goldman: Yes, you took me down there to see. I think it's gone. It was a big mansion. I saw a piece on public television about it.
- Raven: I know they had some horses.
- Goldman: Oh, yes, they raised horses.
- Hicke: So they had a big ranch up there?
- Goldman: Well, they had a big mansion, and they had a lot of grounds, and they raised horses, they had horses on the grounds. It was a big, big piece of property, and it's where Sky Farm is today, which is next to Hillsborough. It's just east of the freeway, Serramonte was just west of [Highway] 280. Remember back there at Serramonte, we were looking for gasoline station sites?
- Raven: Why were we doing that?
- Goldman: Because they had the highest price per square foot. Valuation. We had, in addition, other land farther west where there's another highway, there's a Highway 2.

- Raven: Right, yes, Serramonte is right in that.
- Goldman: We actually planned out a total planned subdivision for all of that land, and we had schools—the Jefferson High School was going to be built there, we knew that, so we had to say how it all looked, and how it would have looked if it weren't for this taking, and then value that land. It was a wonderfully interesting case.
- Hicke: Yes. How did it turn out?
- Goldman: We settled for a lot of money. I think they paid \$10,000 per acre, and it's in my mind that they got like 40 per acre.
- Hicke: Where's the burden of proof on this type of thing?
- Goldman: I think the burden was on us to show what its value was.
- Raven: Yes, I think that's right.
- Hicke: Sounds like it from what you did.
- Goldman: Learned a lot about condemnation there. I don't know what other cases you had, what kind of issues.
- Raven: I had some down—remember the two brothers, quite wealthy down the Peninsula? I had a big one for them one time.
- Goldman: Talking about two brothers, we had the Gellert brothers, we would go over there.
- Raven: Did you go out there on those Friday evenings with me?
- Goldman: Yes, we would have Friday evenings, and Carl Gellert would open up—he had a wooden side to his place, and Bob and I would be there, plus the appraisers.
- Raven: Yes, we all had appraisers.
- Hicke: It was a business meeting?
- Goldman: It was a meeting, the agenda was for Carl Gellert to get the appraisers to keep upping their evaluations of the land up there.

Hicke: I see.

Raven: "From the center of the earth, to the heavens."

Goldman: He would open up this big wooden thing on the side, there'd be Carl Gellert, I think his brother, and there was this guy you liked a lot, he was an engineer. [Ed Schulhauser]

Raven: He was very good.

Goldman: He had worked on the Bay Bridge or maybe the Golden Gate Bridge.

Raven: Yes, he had a good reputation, yes.

Goldman: He had like a tooth missing or—

Raven: Right.

Goldman: You liked him a lot.

Raven: Oh, I liked him. He was a very able guy.

Goldman: We didn't know why he was running around with the Gellerts because—

Raven: He was making a lot of money.

Goldman: I can't say we were enamoured with the Gellerts.

Raven: He told me that story, I think—

Goldman: Ed Schulhauser, something like that.

Raven: You remember when they had him down there that one time, because they had some school, they were getting too close to it and they were making too much noise?

Goldman: I think he had been involved with the building of the Bay Bridge or the Golden Gate—maybe the Bay Bridge. He was like one of the lead engineers, because I know we talked about how people died on that project.

Raven: Yes.

Goldman: So Carl would open up the side of the wall, and there'd be a big bar there behind this wood panel. He'd start passing out drinks and begin telling stories in ways that the moral of the story was that the land that the government was taking up to Serramonte was very valuable. One of the stories he told most often was about Sao Paulo. It was known at the time for having the highest value per square foot of land because, like San Francisco, there was no more room to build.

Hicke: Yes.

Goldman: And they used that as an example of the value of land. He told us he had Hyman in there. He didn't have much.

Raven: Hyman, yes, Hyman.

Goldman: Carl was just drinking. He was working on Hyman mostly.

Raven: Because Hyman had his own mind. He's the one who died, didn't he?

Goldman: He's the one who died. And he told us that when you own property, did you know that you own the property all the way up into the sky and all the way down? Even though you may own this much, this much property.  
*[demonstrates]*

Hicke: That's about six inches in diameter.

Goldman: You have to realize it goes all the way down to the center of the earth and all the way up. So it's not just that little thing on the ground, the surface of the ground that you see, as he explained the value of property.

Hicke: Isn't there something called air rights?

Goldman: Yes.

Hicke: When you build a skyscraper.

Goldman: You may or may not. Air rights may come with your property. In the minerals, these minerals below the ground, all the way down belong to you. So he wanted to explain what it meant to own property and the value of property. He had also been the developer of much of the area that, what do you call that area, it's where Metropolitan built their big subdivision out there, it's near the zoo, in an area near the zoo out there.

Hicke: San Francisco?

Goldman: Yes, in San Francisco. It's a big area, it's out in the avenues. Not the Richmond District. Anyway, he talked about the value, there was all sand out there. And how he had taken that land and subdivided it, and it's large, large—

Raven: Big tract.

Goldman: I just don't know what that area is called.

Hicke: South of San Francisco State?

Goldman: You know where the golf course is? Out there, where people run all the time?

Raven: And there's a little lake [Lake Merced].

Goldman: There's a lake out there, right. He had developed all of that area, which originally was just sand, and this is a story you'll remember because you used to like this story: you told about how he took this guy from Metropolitan Life, I think, out to look at the sand, and he went back to his office, and he had sand between his toes, and he had to take off his shoes and get the sand, he said he reached down and took the guy's foot and cleaned the sand out of his toes.

Raven: I forgot that.

Goldman: You remember that? You used to love that story. That whole vision of Gellert cleaning sand out of this guy's toes! Could he really have done that? You look at the guy, and say, yes, maybe he could have done that. This guy would have done anything.

Raven: You know the talk really got so bad because he would take people down to show them the new lots down there, you know, from the shopping center over and up, and a lot of them would say, "Well, is there gonna be anyone but white people?" Oh no, no, absolutely not. Then, of course, all at once, we had won some lawsuits, and I remember people who were crying, were real upset; they said, Where the hell did he get that?

Goldman: Now, could that other appraiser's first name have been Jess also? The guy I was talking about that did the traffic lights, he was another appraiser that you knew. I'm trying to think of his name.

Raven: I'm thinking of these two, the one that died.

Goldman: Dick Hyman, but there was another guy there.

Raven: I know the guy. The other guy I had there was a fellow I had used down there for those two brothers, you know, on that.

Goldman: Yes, what was his name?

Raven: That big security, that big thing I did down there.

Goldman: He wasn't that older guy?

Raven: No, no, he wasn't.

Goldman: I can't think of the name.

Raven: Yes, he was a heck of a guy, yes.

Hicke: These names are all—are they all in the correspondence or something?

Raven: In fact, I had an embarrassing time with him one time. Kay and I saw up at that great restaurant [The Nut Tree], you know, where you turn off of, go up 501, or whatever it was. I said, "My gosh, here's this guy." I thought it was a guy I knew from Australia. When I started talking to him, I said, "God, it's great to see you. How are things in Australia?" This guy looked at me, and of course, it turned out to be this guy we're talking about.

Goldman: We didn't work on that many cases. But the cases we worked on would last for several years. And I think we worked on a number of them in succession.

### Raven's Leadership

Hicke: When you said Bob was your mentor, can you elaborate on that a little?

- Goldman: Well, Bob is the guy who was my teacher. Taught me a lot of what I do. And was sort of a role model as to what you should do as a lawyer. And as a person.
- Hicke: I think you're talking about more than just how to practice law.
- Goldman: That's right.
- Raven: I tried to give them what Herbert Clark had given me.
- Goldman: We always said that Bob would say Herbert Clark said this and Herbert Clark said that, but we all knew that Herbert Clark, number one: could not have said all of those things. How could Herbert Clark be talking about modern events when he didn't exist back then? Moreover, we learned that Herbert Clark was more of a taciturn individual who didn't go around giving all these opinions. So, we came to think, we came to see Bob as using Herbert Clark to lay down what you should do, when it was really Bob who was saying what you ought to do.
- Hicke: That's great.
- Raven: What a great guy he was, though. We had a case—the lawyer who became judge over in Oakland, a federal judge, but they couldn't get him confirmed, but he was handling matters that finally, you know, because of change in administration or something and he was out. But anyhow, we had a huge case, and we won it in the court before him. There were some awfully good people on our side—good people. Unbelievable, and then the loser took it to the three-judge court in the circuit out there. We had most of the judges from the northern states—I can't remember the names of the good judges. They were all over the West. And we lost that thing. I could not believe it. I didn't see how we lost it—it was a hell of a . . .

So we went with Mr. Clark, as we often did, to the Sheraton Palace Court for dinner. It was right after that. He's an observant person. Couple of drinks, you know, and he's, "Bob, why so morose? What's wrong here?" And I said, "Well, Mr. Clark, we had this case, we won it!" It was a big case, a lot of money involved, and it was from a woman that had been in the Philippines during the war and all that stuff—a lot of money involved. He said, "Listen, we do the best we can. We take the facts, and we polish them the best we can. We arrange them the best we can. We find out as much as

we can about the other side. We do everything we can do. Then it's up to the court."

Goldman: Bob always told me that it's not whether you win or lose, but how you play the game. But I can tell you, Bob wanted to win. As well as play the game well. He wasn't just in it for playing the game.

Raven: Well, I think Mr. Clark always wanted to win too. But he had a better . . . he was more stable about it—if he didn't win, he didn't go to pieces.

Hicke: I think wanting to win is fairly crucial, isn't it? I mean not only just wanting to win, but really putting your heart in it.

Goldman: Yes, working hard and putting your heart into it, putting out your best effort was the idea that Bob instilled in all of us. The culture of the litigation department to this day is the one that Bob developed, and a lot of the young people who were there became, like myself, became the older partners and carried away those traditions that Bob instilled in us. That was a healthy dose of doing the right thing as well as winning—not winning at any cost, but winning was important, but doing it the right way. Being frank with your opponents and not lying to people and being forthright was not only the best thing to do but also a good way to represent your client. It was something that was in your client's interest to do.

Raven: I learned all that from Herb Clark.

Goldman: Well, that's why we heard so much about Mr. Clark.

Hicke: He elaborated on it?

Goldman: I think so.

Raven: Another thing about Mr. Clark is that he took that Embassy Theater case on the plaintiff's side, and he never could seem to get the idea he was on the plaintiff's side. We'd have this meeting with Gene Bennett and Arthur Dunne, two of the greatest lawyers going, and Mr. Clark was there to help me. Well, before it was over, the three of them are, "Well, these are a lot of strikes, these plaintiff cases..." and so forth. I remember that. I'd leave that room, and I was about ready to cry. Did you ever meet him, by any chance? Or Arthur Dunne?

- Hicke: I didn't know either one of them, but I've heard many stories.
- Raven: Arthur Dunne was the son of the Dunne that was in the firm with all those people. He was the greatest trial lawyer there ever was.
- Goldman: Bob tried this big case in front of Judge Murphy, one of the first big movie antitrust cases, and Pillsbury was on the other side. I don't think Bob told you about the episode involving Dick Archer in that case.
- Hicke: Well, I don't know until you tell me what it is.
- Goldman: Bob found himself in conflict quite often with Eugene Bennett. I don't know who all these people were.
- Hicke: Charlie Prael.
- Raven: Charlie Prael.
- Goldman: All the people from Pillsbury in that case, and Bob being the young person, because I wasn't there. This was before my time, but I remember Bob telling me this story. They were trying to take advantage of the younger Bob Raven, and he was standing up to them and finding himself in conflict with them. He mentioned it to Dick Archer one day about the conflict and whether Dick could come out. Or Dick volunteered to come out and smooth things over with the Pillsbury people, and Bob told me, has he told you this story?
- Hicke: No. Go ahead.
- Goldman: He was up there one day arguing to Judge Murphy when he heard a big ruckus in the back of the courtroom, and there was Dick Archer tussling with the Pillsbury lawyers. *[laughter]* I've got to go.
- Raven: You've been tremendous.
- Hicke: Did we pretty much cover what you wanted to say?
- Goldman: Yes. I think we've covered—I'm sure there are—
- Raven: Listen, enough of this. I'm going to get out of here.

Goldman: I've got to be reminded about some more. I haven't gone back to look at all the cases Bob and I worked on. I think it's true that there weren't a lot, but they all lasted for a long time. Even if we weren't working together, we had our offices next door to each other for nearly all of that time and spoke quite often. Bob was the leader of the firm, and he made it his business to get around and see everybody one-on-one, just to tell them, for them only to know, what was going on in the firm. And later on in life all of us young people compared notes, and we found out he was telling each one of us the same thing.

Hicke: There's one thing I didn't get to ask you, and that was when you came in in 1965, it was maybe just the ending of the big turmoil that had taken place in the firm that Bob and Dick Archer and John Austin brought about.

Goldman: I didn't know about it. In fact, it was not over actually, the big turmoil. Because there still were a number of partners who left after I arrived.

Raven: Was [J.] Hart Clinton here?

Goldman: Hart was here, but there were a number of others who you knew were not going to be—Well, I don't know if you want me to mention.

Hicke: I know about Ricky Musto leaving.

Goldman: And I know there was still work to be done. I could observe it as a young lawyer. I saw Dick Archer, or Bob or John Austin, in the offices of these people talking in an earnest fashion that suggested something was going on. And those people, within five to seven years after I came to the firm, left the firm. So the turmoil wasn't over I don't think by the time I arrived. There were just more things that needed to be done.

Hicke: But you were part of the future.

Goldman: That turned out to be a very exciting thing for me. As Bob reminded me the other day, that was an asset that Bob created for all of us. He was going to take good care of it.

Hicke: Thank you so much. Your stories have been great.

[End Tape 20, Side A]



## XII. RECOLLECTIONS WITH GORDON ERSPAMER AND LESLIE-KAY RAVEN

Interview #10: February 26, 1999

[Begin Tape 21, Side A]

### Bally Manufacturing and Bally Distributing

- Hicke: I just wanted to start by saying Bob Raven is here, of course, and Gordon Erspamer, and Leslie-Kay Raven is joining us this morning. So here we go, and Gordon is going to start with some cases that you worked on with Bob, is that right?
- Erspamer: Right, yes. Actually these were a couple of Bally cases.
- Hicke: Can you tell me about them?
- Erspamer: Bally Manufacturing and Bally Distributing. were our clients in the first case. It was a case up in Reno, in state court in Reno. And we were the defendants in the case. The plaintiff was International Game Technology, IGT, and Si Redd [William S. Redd] .
- Raven: Si Redd. He was the richest man in Nevada. In fact, they called him "Mr. Nevada."
- Erspamer: Si Redd was an interesting chap. He was, at that time about, what, in his mid-60s I would say, early to mid-60s. He may have been even late sixties.
- Raven: Wasn't he something?
- Erspamer: Bob took his deposition, I remember, and Bob went on for I think six or eight days with him. When he came out, I looked at the transcript, and each answer was about a page or two long, and sometimes they were five or ten pages long. I described it to Bob; I remember this very well, vividly. I said, "You know, that guy's got a mind like a ball in a pinball machine."
- Hicke: Si Redd?
- Erspamer: Si Redd, yes. Every time he hit a bumper he took off in some other direction.
- Raven: That's right. He didn't always give the same answer to the same question.

- Erspamer: No. And you couldn't make hide nor hair out of what he said. It didn't make any sense. The sentence structure was so convoluted and he went on so many digressions that I remember you told me later that you were always mystified as to what question to ask next, because there were so many leads and so many different directions. *[laughter]*
- Raven: Do you recall that too—that he's supposed to be one of the wealthiest men in Nevada?
- Erspamer: He is one of the wealthiest men in Nevada. He had had a falling out with Bally in Chicago.
- Raven: Bally made gambling machines and things.
- Hicke: You anticipated my question, exactly. Thanks.
- Erspamer: They were the leading maker of the traditional, electromechanical slot machines. . . you know, the ones you pull, the "one-armed bandits." And they'd been working on a kind of a secret project to get a video gaming machine on the side. . .at Bally when Redd was still there. When it came time to negotiate his severance package, Si was pretty smart—he saw the future. He said, "Well, why don't you throw in those machines that are sitting over in the warehouse that you've been working on?" And Bally said, "Fine." It was part of his severance package, and then he had his lawyer draw up the papers. In the papers he not only had the machines being transferred, but he also had, you remember, a covenant not to compete. That Bally would not compete in that business for, oh, I forget, it was five or seven, years something like that. It was very poorly written; it was very vague.
- Raven: Si probably drew it that way.
- Erspamer: His lawyers—I think so, I think so. Unless you knew a lot about law you wouldn't catch it; it was kind of written that way.
- Raven: Do you remember the name of his lawyer?
- Erspamer: Very good lawyer. Echeverria was his name.
- Raven: Echeverria, that's right.

Erspamer: Echeverria, yes—I have trouble with his first name, I probably—may even have it down here somewhere—

Raven: Now what was the firm?

Raven: What was the firm that we—from Nevada—that one guy, a big shot there, owned a hotel and we worked with them a lot.

Erspamer: Yes, that guy's name was Don Carano.

Raven: Don Carano.

Erspamer: Remember he had a son who was a football player—a quarterback?

Raven: Down in Arizona or something?

Erspamer: Yes, actually, he played for Dallas for a couple of years.

Raven: Yes, Dallas, it was Dallas. That's right.

Erspamer: Yes.

Raven: Don Carano's got a big winery. He and a friend have a big winery over it's over by—what's that lake up in the mountains, Kay? But he's been out here for about ten years. [Ferrari-Carano Winery]

Erspamer: Not Lake Isabell?

Hicke: Is it in Napa or Sonoma?

Raven: It's up that way—no it's Sonoma I guess.

Hicke: It's when they dammed that creek.

L. Raven: Dry Creek? When they dammed Dry Creek. [Lake Sonoma]

Raven: Yes, it was up by Dry Creek.

Erspamer: The lawyer we were working with was John Frankovitch, who is his partner. He was a trial lawyer. He was our local counsel, but he had argued some of the motions. Nevada is the kind of place where you are never quite sure

whether the judges are ruling based on facts or some other factors, so everyone always hires local counsel when they go to Nevada.

Raven: What's the name of the guy that had the hotel, where we used the restaurant there?

Erspamer: Oh, yes, that's Carano.

Raven: That's Carano. He's the one that has the thing over here.

Erspamer: Yes, oh yes. Right.

Hicke: Ferrari-Carano, is that the name of it?

L. Raven: I think so.

Erspamer: Yes, Oh, yes I've had his wine.

Hicke: They have all these beautiful gardens and its way up there.

Raven: We should drop by and see him sometime.

Erspamer: Anyway, this case sort of dropped out of the sky and a couple things I remember about it Bob—first of all I remember your argument on the preliminary injunction motion. There was a motion very early in the case to see whether we would be enjoined, our clients, from building video gaming machines, video Keno, video blackjack, video poker. There was an all-day argument up there in front of this judge—you went on all day. And you argued against Echeverria, as I recall.

Raven: He's a good lawyer.

Erspamer: A very good lawyer and at the end of the day—one thing I remember, we remarked was that the entire day, the only questions he had asked were two or three times the same question: "Is this a good time to take a break?"  
*[Laughter]* He just sat there real stone-faced.

Raven: As I recall, we had a pretty silent judge out there. He didn't talk, you're quite right. Did you go down and argue before the Supreme Court in Nevada?

Erspamer: Yes, then later, we actually had lost the injunction and Bob went down and argued with Kathy Fisher and I—

Raven: We took the appeal.

Erspamer: We took the appeal and the argument really went well, and it looked like we were going to win and the case settled.

Raven: Oh, yes.

Erspamer: It settled right before we were anticipating the decision.

Raven: You remember my old friend Max Gilliam from that firm?

Erspamer: Latham [Latham & Watkins].

Raven: Latham—they were up there. They were on the other side from us.

Erspamer: Correct—along with Echeverria.

Raven: I guess they'd brought him in, I think because we were in it.

Erspamer: Yes, they brought that firm in. There were a number of a lawyers there. Bob Kuenzel was one of the lawyers. Bill Meek, and Max Gilliam—and there were several others.

Raven: Max Gilliam, yes, I remember Max. God, he's still going strong.

Hicke: Can you tell me how the settlement went?

Erspamer: The settlement was sort of a compromise, it was really a "split-the-baby" kind of thing. We agreed to stay out of the market for a short period of time, much shorter than was anticipated in this agreement. So it was a good settlement for our client. Actually, one of the things that I respect about you most, Bob, came out of that case, though. You may not remember. We'll give you equal time to do the wild story. And we can do the Gary Rinck story too, about the delivery of the preliminary injunction brief. Let's do that one first. That was funny. I'd been taking a lot of depositions along with Kathy Fisher, and I'd been asked to draft the preliminary injunction brief, I still have a copy of it, by the way.

Raven: Do you?

- Erspamer: And we were really working very hard for six months this case was going—six months at just break-neck speed, sometimes two, three, four depositions a day all over the country, some of them back east. I came back I think three days before this brief was due, having taken the last of my depositions. I'd been asked to write the brief. We ended up filing a 101-page brief three days later. I'd been up all night, I remember this, the last night, all night and all day. We missed the last plane to Reno to carry the brief out—that was before the days of FAX machines—
- Raven: In fact, it was what's-his-name who's in London who—
- Erspamer: Gary Rinck—
- Raven: Gary Rinck was the one that—I remember—Yes, he missed—he got a cab but he still missed it didn't he?
- Erspamer: No, as I recall what happened was we got a chartered plane and he volunteered to go because he was fresher than any of the rest of us.
- Raven: We had all kinds of money, didn't we?
- Erspamer: You asked me if I wanted to go, and I said I'd really rather go home and sleep—and so he took a chartered plane to Reno. He got in the cab, and made the guy hurry; said he'd give him a \$100; he said, "Go fast." He went through stoplights. They got to the court a little late, but he pounded on the door and they got somebody to open it up and let him in and we got the brief filed.
- Raven: Oh, they did take it? Oh, he got it in.
- Hicke: What a cliffhanger!
- Raven: That's Gary Rinck. He's pretty tall.
- Erspamer: Oh, he's six feet six or six feet seven. Yes, there was that story. But one of the reasons—I'll never forget this story, I've told a lot of younger lawyers this years later—there was a point where, and I don't remember what the facts were, but the client wanted to do something that you didn't want to do. And you used to—you always took the high road on things.
- Hicke: We're talking about ethics, here?

Erspamer: Ethics. I remember there was a discussion of it, and you were quite firm about it. He kept pushing you and trying to push you and—and I'm paraphrasing, but you said something like, "Well, my reputation and the reputation of this firm is very, very important to us, and we can't do that, and if that's what you want to do, I think that it's time that you find another lawyer." And, you know, to me—I was a very young lawyer. I said, "Boy, oh, boy, what's going on here?" and the surprising thing to me was that they backed off immediately. "Oh, no. Oh no." It taught me that you have to stick to your scruples, even if you get a lot of pressure and even if it means losing the engagement. You've got to do things the right way.

Raven: Glenn Seidenfeld was the general counsel.

Erspamer: Glenn Seidenfeld was the general counsel at Bally. Right. He liked us.

Raven: In fact we got some other business, I think, from him.

Erspamer: We did and then he ended up—parting ways. It was a difficult case because it was a difficult client. I'll always remember rumors of Mafia ties of various people. And, you know, you always wondered what was going on.

Hicke: Did we talk about how this case came to Bob?

Erspamer: It came in to Bob and I'm trying to remember how. Bob, do you remember?

Raven: I think through Seidenfeld, as I recall. He might have even come out to see me.

Erspamer: I think one of the reasons he wanted to hire us was that—

Raven: But they had talked to a lot of other people.

Erspamer: Right, but they wanted to hire—because they had these rumors swirling about them—they wanted to hire a firm which had an outstanding reputation, an impeccable reputation, and Bob had that and they really liked Bob. I remember they really valued your advice. And your advice was good. It was a fun case for the minions, too. We were running around. I remember a number of the associates who were working on the case with me, we were arguing that we ought to have a gambling allowance because every time we went up to Reno or Las Vegas we'd tend to lose money. "We don't get paid enough for this!"

- Raven: Who were some of the other associates on that case?
- Erspamer: Well, we had filed an antitrust counterclaim, and there were a couple characters on that. Marc Fairman was on that.
- Raven: OK, Marc. Sure, he would be.
- Erspamer: And then we had a lawyer who left us maybe 15 years ago and is now Stanley Mosk's chief clerk, Dennis Maio.
- Raven: Oh, Dennis Maio. He was a good boy, a good attorney.
- Erspamer: Yes, an extremely good writer. I think he went to Yale Law school. He had a bow tie and was very much the intellectual.
- Raven: He always was, yes.
- Erspamer: They worked on that part of the case together and the rest of the case it was mainly —
- Raven: Kathy worked on it, didn't she?
- Erspamer: Kathy Fisher and I did a lot of the day-to-day work.
- Raven: What's the name of that other young lady who lives up in Sacramento now?
- Erspamer: Kathy Bagdonas?
- Raven: Didn't Bagdonas work on that one?
- Erspamer: No, she didn't work on that case.
- Raven: I had her working on some other case.
- Erspamer: There was a cast of many people. I'm trying to remember who some of the others were. One of them was Gary Ewell.
- Raven: Gary Ewell. That's exactly right.
- Erspamer: From Texas. Yes, he had worked on the case and he left the firm shortly after that case was over. The ironic part of it is he is now in partnership up

in Marin County with the lawyer from Latham & Watkins who did most of the work on the case, Bob Kuenzel. So it is Ewell & Kuenzel.

Raven: Gary's wife is our librarian.

Erspamer: Gary's wife is still our librarian, our head librarian in San Francisco.

Raven: She is very good.

Hicke: What's her name? [Teresa Oppedal]

Erspamer: Now you're testing my memory.

Hicke: We'll fill that in later. Also, could you give me the official name, cite and the date of the —

Erspamer: The case was No. 82-1844 in Washoe County District Court. It was a state court in Reno, Nevada. It was filed in 1982 and it settled, I think, in 1982. I think it was filed early in the year.

Raven: When did we argue in the Supreme Court?

Erspamer: The case is *IGT and William S. Redd v. Bally Mfg. Corp. and Bally Dist. Co.* I think we asked for an expedited appeal on it. So it was argued very quickly. Right after the injunction, I think within a matter of two or three months, we were arguing the appeal.

Raven: We settled it before we got it.

Erspamer: The decision came out.

Raven: I guess we held up on the decision.

Hicke: It was appealed to the circuit court?

Erspamer: No, the Nevada Supreme Court. And that was in a different city. That was in—

Raven: It was down south of—.

Hicke: Carson City, Nevada.

- Erspamer: Carson City. It was in Carson City, yes. And you, Kathy and I went up for it and you had those little cards. You used to use those little index cards, remember?
- Raven: Oh, yes.
- Erspamer: You had your notes written out, and somebody had changed the order, but you'd have a thought on each card and that—It was a very good argument. I remember we did a search to find out contributions to the judge's campaigns—who made the contributions. We were always worried about this.
- Raven: You know, Nevada — it's shifty! I'd forgotten about that. *[laughter]*
- Erspamer: In the middle of the case we thought—well maybe we should disqualify this judge if he's made a campaign contribution.
- Hicke: Did anything turn up?
- Erspamer: Oh, yes. It turned up. The only problem was, every other judge also made campaign contributions. Old Si was well known for that. There wasn't a single judge in the state!
- Raven: The trial judge we didn't have a prayer with, what's the attorney again?
- Erspamer: *[Peter]* Echeverria?
- Raven: Oh, yes. Because they were just like this *[signaling tight with his hand]*. He would tell the judge what to do, just about—signaling.
- Erspamer: He was a pretty capable guy.
- Raven: Oh, a very good lawyer, a very good lawyer, one of the best.
- Erspamer: Well, when it was all over, before the decision came out, we went out to dinner at a nice restaurant, I remember. We'd been working really really hard and this is Bob's favorite story.
- Raven: We had a hell of a time.
- Erspamer: We had a good time. We ordered some good bottles of—red wine, I believe, as I recall—some good bottles of Cabernet. I was accustomed to keeping

my wallet in my pants pocket and I reached down at the end of the meal, we were about ready to go and my jacket was on the chair behind me and I said, "My wallet's gone!" We had 12 or 15 people there and Bob is down on his hands and knees looking around and he kind of just crawled over to—

Raven: You had hung your jacket on your chair—

Erspamer: The chair, exactly. And he came over to my chair and he felt in the coat pocket and he said, "What is this? Why, this looks like a wallet!" Bob has reminded me of this incident, usually on a monthly basis, for many years — at least 50 times!

Raven: That's one thing I can keep up here! *[laughter]*

Erspamer: That definitely made an impression on you. Of course, I was an associate still then. But it was all good fun.

Raven: Yes, we didn't draw any distinctions, or anything.

### Erspamer Joins MoFo

Erspamer: I had come to the firm from the Steinhart firm originally.

Hicke: I had wanted to ask you about that.

Erspamer: I'd started out at another firm for about three years and then —. I'd had an offer from Morrison coming out of law school. Steinhart went through a little trouble, a little instability. Basically about half the firm left in different groups.

Raven: It did break up there at one time, didn't it?

Erspamer: Yes. They went from about 45 lawyers to 15.

Raven: Who was it over in Oakland, one of the elderly people, what was his name?

Erspamer: Jesse Steinhart was in San Francisco. Steinhart, Goldberg, B.J. Feigenbaum and Sam Ladar were all the older people in the firm. It was very good firm. In fact, back when I joined it, there were four Supreme Court clerks out of about 25 lawyers.

L. Raven: Why did you choose Steinhart over Morrison in the beginning?

- Erspamer: Size. It really had to do with size.
- Raven: By the time you came to us we were probably larger.
- Erspamer: Yes, Steinhart was much smaller. I thought I wanted a smaller firm and Morrison told that they were hiring 25 litigators in my class at that time.
- Hicke: What year was this?
- Erspamer: It would have been 1977 when the offers were made. And I thought, well that's a lot of people to absorb into a firm. It was just a huge growth cycle. So I said I might be better off in a little smaller group. You know, in a smaller firm that also had an outstanding reputation. In fact, people called Steinhart the "Little MoFo."
- Raven: You know what they are paying those first year people, now?
- Erspamer: \$100,000.
- Raven: \$100,000.
- Erspamer: Yes. When I started I got paid \$17,000 which I thought was a fortune.
- Raven: I got \$325 a month? *[laughter]*
- Erspamer: Well, coming out of the service, that probably was a good raise!
- Raven: I thought that was a hell of a lot of money!
- L. Raven: Relatively speaking, our rent was \$125. So, it wasn't much at all.
- Hicke: So you went to Steinhart and spent three years there?
- Erspamer: Three years there and I've been at Morrison ever since. Bob and I worked many years on cases together, but that was the first big one we worked on together.
- Hicke: Why did you come to MoFo?
- Erspamer: Well, you know, it's funny. I remember —
- Raven: 125 people.

- Erspamer: I was a little more concerned about stability, having been through this experience with the firm breaking apart and —
- Raven: It was one of the oldest firms in the City.
- Erspamer: Morrison had been around a long time, and I was also very close to coming anyway, out of law school, so I called up the person who had interviewed me at school and I said I had kind of an unsettled situation here.
- Hicke: Who was it?
- Erspamer: It was Shelley [Rochelle D.] Alpert.
- Raven: You know, she's down at Brobeck. Well, you know that.
- Erspamer: Yes, she left recently, unfortunately, but I said, "I can't say too much but it is kind of an unsettled situation here. Could I come over and talk to you?" And she said, "Fine, why don't you come over this afternoon?"
- Raven: Yes. She's a great gal.
- Erspamer: She was, and in short order I had an offer from Morrison. I remember interviewing with you, Bob, coming out of law school.
- Raven: What year would that have been, again?
- Erspamer: I think it would have been 1976 or 1977 when I interviewed. I remember that picture that you have, the black & white picture of you at a desk that you have on your wall. I remember thinking, Boy, this is amazing. I'm just a law student and I get to talk to one of the most famous lawyers in California—even the country! One thing I remember very well, and it is another reason I came to Morrison, was that Bob and I both are from the Midwest. Kay, I'm sure—
- L. Raven: Yes, I am too.
- Erspamer: I was born in Michigan in a town called Ironwood, Michigan. In the UP [Upper Peninsula].
- Raven: Yes.

Erspamer: I had moved to Minnesota when I was a child. And so we had that connection and Bob, your whole life you've treated people really decently. You've treated them without putting on airs and that really impressed me because that's the kind of person I am too. It is a Midwestern kind of character trait.

Raven: Midwestern farm boy. That's what I was.

### Cantaloupe Cases

Erspamer: I've always liked that. You used to kind of poke your head in and we'd have a few laughs about things. It was always a very congenial relationship. I think we worked next on the cantaloupe cases. Do you remember those cantaloupe cases? It was out of Fresno.

Hicke: Is it the fruit we're talking about?

Erspamer: The fruit, yes. It was an antitrust case alleging that the—

Raven: How many people were there?

Erspamer: There were a lot of firms there, 25 or 30 different firms in it. It was about pre-cooling for cantaloupe. They would add an extra charge for cantaloupe—for not freezing them, but getting them cold before they transport them so they would transport better. They would put them in these sheds on pallets, and they would charge 50¢ a pallet, which was sort of the going rate for cooling.

Hicke: Which company?

Erspamer: Actually, in that case we represented two different companies. One was called Perez Packing. Remember Tom Perez?

Raven: Yes.

Erspamer: And his brother was in the business. It was a family-run business. We were then involved later, with a friend of Tom's who was a very small outfit. We ended representing two of the 25 defendants.

Hicke: How did it come in?

Erspamer: The case came in through Bob.

Raven: What was our guy again? It wasn't that farmer down in the Valley, was it?

Erspamer: Perez Packing was down in Firebaugh.

Raven: Oh, yes.

Erspamer: Remember Firebaugh? The case was assigned to Edward Dean Price.

Raven: Oh, yes. An old buddy of mine. Judge Price. Pretty tough guy.

Erspamer: Pretty tough guy, and he was rumored to have a heavy drinking problem. He's now dead, actually. He was quite difficult. I remember a couple of very interesting things from that case, too.

Hicke: Let's have them.

Erspamer: Well, one of the things that sticks in my mind; two things stick in my mind. We had brought a motion to compel interrogatory answers, and we went on to argue, and we won almost every one. We were going down the line. It was going really well with Price, "Granted. Granted. Granted." I was arguing this and I was feeling pretty good, and then we got to one that he didn't like. It had to do with the fact that cantaloupe growers in the northern part of the state and the southern part of the state never really competed with each other because they had completely different growing seasons. Of course, cantaloupes have to be packed and shipped immediately or they rot. And so it was just information they had about what the season was, what their weather season was. Well, the judge had it in his mind that we could get this from the US Weather Service, why were we bothering with it? Anyway, even though we wound up winning maybe 25 out of 28 of these interrogatories, he sanctioned us for that one interrogatory.

Raven: Is that right?

Erspamer: I remember that. It was only \$200 or something but —

Raven: He was a tough son of a gun.

Erspamer: Yes. He was very tough. And then I remember another time that they had those lawyers from the East Coast, remember the Philadelphia firm, the Block firm? Arthur Kaplan? He was a famous plaintiff's antitrust lawyer. [Harold Kohn]

Raven: Oh, they were plaintiffs.

Erspamer: They were the plaintiffs in the case. We had a motion on, and I think it was a motion to compel production of documents. It was being argued by someone from Gene Crew's firm, back when they were called Curry & Crew. Gene Crew, remember him?

Raven: Yes.

Erspamer: A pretty good, fair, lawyer. Arthur Kaplan got up, one of these very distinguished, every hair in place, beautiful tie, thousand dollar suit types, you know, the whole bit, to argue this motion and the judge [Price] says, "I don't need to hear from you. I want to hear from the other side." So our guy, Tim Perry, got up there and he just, in half an hour, he just laid into him like I'd never seen before. Just, "That's stupid. That's the worst—" and he went on and on and on.

Hicke: Who is talking?

Erspamer: This is one of the defendant's lawyers who was talking, and I said, "Boy this was looking real bad."

Raven: I know who it was. Medium height, curly hair.

Erspamer: Yes, anyway the judge says, "All right. I've heard enough." And Arthur Kaplan starts to get up and Price goes, "I don't need to hear from you!" So he sat down again and the judge says (it was our motion), he says, "The motion is granted." And it was like the exact opposite of everything everyone expected. And Arthur Kaplan says, "But, but, but," and the judge says, "Shut up and sit down. I don't want to hear another word from you and I'll sanction you if you get up again."

Hicke: So much for dressing for success.

Erspamer: So he was rather bewildered by it. What we thought had happened is he just got mixed up as to whom was going to win.

Raven: Did this take place in Fresno? What was the judge's name?

Erspamer: Yes. Price. Edward Dean Price.

Raven: Dean Price.

Erspamer: He was called "The Deaner." So you got "Deaned." People would say you "got Deaned."

Hicke: I think what you are saying is how very very much it all depends on the personality and character of the judge.

Raven: There's a lot to that.

Erspamer: Often. Sure. And also how he reacts to the personality and character of the lawyers involved.

Hicke: So how do you deal with that, when you are trying a case, Bob? How do you deal with different kinds of judges?

Raven: Sometimes, you don't say a thing.

Erspamer: You say, yes sir, No sir, yes sir.

Raven: Others, you try to kind of move around. He can't say I don't know anything about that principle.

Hicke: So you try to respond to the judge's personality and temperament?

Raven: Yes, sure.

Erspamer: Educate him.

Raven: Why some of those judges get that way, I think is, there are a lot of lawyers who are just troublemakers in front of the court.

Erspamer: There are. There are lawyers who will never shut up. You could have a trap door there and trigger it and they'd be going down shouting.

Raven: They'd be shouting all the way down.

Hicke: I'm going to turn the tape over.

[End Tape 21, Side A]

[Begin Tape 21, Side B]

Hicke: OK.

Erspamer: I'm trying to remember the name of the plaintiff. *Northwest Packing v.* an army of thousands. Actually, I remember another good story. On the other side there were over 25-30 defendants. I remember another story..

Raven: Was Pillsbury in it?

Erspamer: Pillsbury was in it. And Heller, Ehrman. They represented Tri-Valley. The problem with the case is we had about 10 really good firms in it and then we had about 15 really bad firms in it that were, not bad for any other reason than because they were small for that kind of case. They were very small firms that did mostly personal injury in these little towns where a lot of the cantaloupe was grown. We never could really get them under control, because they kept on doing things that were inconsistent with what we were doing while we were trying to defend the case. A big motion came up, a class certification motion for the class action and we'd been developing an argument with Steve Bomse. Actually this was my idea but Steve—we executed it pretty well—who really said that they didn't have standing because these were wholesalers and the people who ultimately bought the fruit were grocers and people like that. And ultimate consumers eventually. I remember that we were having a lot of problems with these people and we tried to put together what is called a sharing agreement where everyone shares in pays in— You know, if you sent 25 lawyers to a deposition, that's incredibly expensive. So we tried to divide the work up and so we sent two or three lawyers to the deposition and then we'd share the cost. We never quite got to the critical mass on the sharing agreement. We circulated it. We signed it several times but it had to have a minimum of ten people in it and we never quite got there.

Raven: I'm sure Brobeck was one of the holdouts.

Erspamer: Brobeck was in there.

Raven: Do you remember? Was it Moses Lasky?

Erspamer: No, it was —

Raven: Haas? Richard Haas?

Erspamer: Haas might have been involved but there was a younger guy. If I could find the thing I'm sure I'll be able to refresh myself on his name. But anyway, we got to the point where we were just very very frustrated, and a couple of real small defendants had settled. I remember Bob and I talked and you said, "Well, it's time to get the front-end discount." So we ended up calling up the plaintiff's lawyer and they were very happy to kind of get this ball rolling because we were one of the bigger defendants —

Raven: Didn't I have a good relationship with the plaintiff's lawyers? [Landels, Ripley & Diamond]

Erspamer: Yes, you did. They had a guy over [John Anderson] at the firm in San Francisco that had that space in the old barn or, it was a really strange building and I'm trying to remember the guy's name. You did know him and they were very pleased because they wanted to settle the case.

Raven: That was a good way to start.

Erspamer: That was a good way to start, with us, because we were probably the leaders among the defense group and they gave us a very attractive rate. We'd hired a lawyer over at Farella, Braun & Martel, Bill Friedrich, to —

Raven: He was a specialist.

Erspamer: His specialty was insurance. And so he was looking at insurance coverage and this, of course, was a Sherman Act, Section 1 case, which is intentional wrongdoing, and you can't get insurance for it. But he was really good at it.

Raven: He was excellent.

Erspamer: While we were talking to the plaintiff's group he was, at the same time, negotiating with the insurance company, and we ended up getting a deal for them where the insurance company picked up the tab.

Raven: That's right.

Erspamer: We settled the case and the client was just—actually both clients ended up getting out, the second a little bit later. The second one paid a little bit more per carton. It was always done per carton. So we got out of the case and all the other defendants were just in a state of shock. They called and they complained saying, "You were the ones circulating the sharing agreement."

I said, "Well, nobody ever signed the darned thing." And in short order, the next year, every few weeks someone would call me and say, "Another one settled." "Another one settled." And Steve Bomse was the—you remember him.

Raven: Yes, Steve, sure.

Erspamer: Steve was the last one left. Tri-Valley, they were the biggest one. He ended up paying four or five times as much per carton as we did, because they were the last ones out of it. There was always a lot of pressure to settle these antitrust cases, because it is joint and several liability and you can get caught holding the bag—get stuck for a lot of money. But that was a funny case, because we got out earlier and our clients not only got the judgment paid, they got all their attorneys' fees paid by the insurance companies. One of the things that had happened in that case was that they were not very sophisticated about insurance coverage and when they first filed the complaint they just had a straight Sherman Act. But they filed an amended complaint when they found out there were some insurance companies involved and added a false advertising cause of action, because there was advertising coverage under the insurance policies so that triggered the duty to defend. That was a fun case. Cantaloupes.

Hicke: Do we have some idea about the year or the decade?

Erspamer: That case would have been right around 1985, 1986 timeframe. 1987.

Raven: See, in 1987 I was, you know, president-elect of the ABA

Erspamer: It might have been before that. 1984-1985 maybe. It was before that.

Raven: Both Jack Londen and I were campaigning during that year [1986].

Erspamer: I do remember that.

Raven: Remember that? Jack Londen was my big campaign manager.

Erspamer: And a very well run campaign it was.

Raven: It was, yes.

Erspamer: Did we work on the Genentech case together?

Raven: Roland Brandel used to represent them. I think we did work on one of those cases.

Erspamer: Or was that Garrett? I can't remember now.

Raven: Then, I think, eventually we got a conflict in it and I don't think we represented them any more.

### Bally Midway

Erspamer: The one I do remember is the second Bally case, for Bally Midway. You remember *PacMan* and *Galaxion* and *Galaga* and all these video games. Bally Midway was the plaintiff.

Hicke: You represented the plaintiff?

Erspamer: We represented the plaintiff. It was a copyright infringement case. What was happening is that *PacMan* was so popular and *Ms. PacMan* and these games that a lot of companies—

Raven: Is *PacMan* the one that walks around?

Erspamer: It's the little thing that eats. It's on a video screen. *PacMan*. It was just a new genre at the time. It was brand new and they were selling like hotcakes. They had arcade versions. You'd go in an arcade and put your 50¢ in and play it. Anyway, Taiwan and Japan and some of these countries were flooding the market with the knockoff boards, cheap boards that totally infringed on the copyrights. And Bally had a program all over the country of trying to shut these people down and they would use a raid. They would get the federal marshals over there.

Raven: Oh, that's right. I remember that. They'd go and raid them .

Erspamer: We were actually the last one they did. They finally dropped the program but we, you know, filed two cases. One up in Sacramento and one in San Francisco. I'll never forget this one because this was the biggest number of defendants I've ever had in a case. There were, I think, 115 defendants in the San Francisco case and about thirty in the Sacramento case.

Hicke: These were local?

Erspamer: All local companies, game parlors, a few manufacturers. We'd hired this young kid [James Campbell]— he looked like a young kid but he was a private operative, a private eye, who made all these buys. He would go in and he would purchase these boards, circuit boards, and machines and he placed all big orders from everybody on the same day, okay. So they are all sitting in the warehouse there. He had a very sort of eager beaver type of personality —

Raven: Where did we get him from?

Erspamer: Who is the really old private eye in San Francisco, the guy—

Raven: The one Brosnahan knows well? It was Hal Lipset.

Erspamer: He'd been a private eye for many years. Anyway, he was one of his young operatives. And so he would go around and he would spend all this money and he would make a big order. You actually do an order first, pay them in cash, usually. And then he would place a big order, as big as he possibly could. So we had—and the logistics of these were a nightmare—but we had trucks, marshals, we had a seizure order all set to go the same day, simultaneously in San Francisco, in Sacramento and even up in some of the other counties up north.

Raven: We all were there, I remember that.

Erspamer: It was like a war room. We had extra lines installed and taking calls from these trucks to strike simultaneously because otherwise everything would be cleaned out. Word would spread and everything was gone at these warehouses. Anyway, I remember a couple of things about this case. First of all, I remember Bob and I had to go in and get these TROs, the temporary restraining orders. We got them in federal court—the Northern District and then in the Eastern District. It was Judge—who was the one who did all those antitrust cases —

Raven: You know that guy. He was a wonderful guy. He was the one—

Hicke: Williams?

Raven: Williams! Spencer Williams. Oh, well, I always got along well with Spencer.

Erspamer: Anyway, you and I went down to do the big one. You argued it with me and—

Raven: Was he down the Peninsula by then?

Erspamer: He was down the Peninsula in San Jose. And we sent Mike Carroll off to do the other one up in Sacramento. Remember, we'd asked him to help out at the last minute?

Raven: Yes.

Erspamer: Anyway, we won ours, and he said, "Well, what do you want me to sign?" you know, and he said, "Fine." You got along well with him. So we were feeling pretty good, and we came back to the office here, and there were three emergency phone messages from Mike Carroll. He'd gone up to Sacramento and the judge we had, Judge Schwartz, was out of town, so he had to go to Judge Karlton, who is a general duty judge, and he just struck out. Judge Karlton said he had never issued any TRO without notice in his life, and he was not about to do it now.

Raven: No, he was the wrong guy.

Erspamer: It was terrible, and he just struck out. We only got them by going back. The second time he finally agreed that he would do it without prejudice to be renewed in front of Judge Schwartz. So the next day you and I went up there to talk to Judge Schwartz. I'll never forget this. Judge Schwartz had a lot of qualms about this too because he —

Raven: Yes. Milton Schwartz. He was a good judge.

Erspamer: He was a careful judge, and he said—I remember he looked at Bob, and he said, "Are you telling me that this is on the up-and-up? All this has been done correctly? Because I'll tell you that if any of this is wrong, I'm going to be very very unhappy." I remember he said, "I know your firm. I know your people, and I know you, Bob, and I know you do things the right way." He said, "If you tell me that it is, I will sign your order." And you said, "Yes, it is all on the up-and-up and we've carefully done this." He signed the order. We sent the trucks out and we got hundreds of thousands of dollars of goods. We put it all in a warehouse and he sent a legal assistant on every truck, because not only did we seize the machines, we seized all their business records. We got an order that we could seize the business

records so we could copy them. Otherwise they disappear, they would just destroy them all. So we got all the invoices for these knock-off games and all that stuff. We're at this command center, and I remember one of the calls really well. You were there too, and we were constantly having to make calls about things.

Raven: On the telephone.

Erspamer: On the telephone. Big decisions. Mike Carroll was on one of the trucks and they'd gotten to a warehouse where they'd put extra padlocks on it. They couldn't get in.

Raven: I remember that. They got in, though, finally didn't they?

Erspamer: They did get in, and they said, "Mike Carroll just went out and got himself a hammer," and he was about to pound the door in. This was one of our partners! *[laughter]* I said, "I'm not so sure that's a good idea." Anyway, while he was pounding away at the lock, apparently from another exit or door, the other guys loaded a truck up. After it was loaded, they took off down the street in Alameda. So our truck was in sort of a high-speed chase trying to follow their truck, but we told them to break it off. It's not worth it and so on. But Mike Carroll was over there with his big hammer. *[laughter]* You remember Mike. Remember him? He was kind of a stocky guy —

Raven: Where did Mike Carroll go to?

Erspamer: He started his own firm with three other guys when he left MoFo. One case he worked on was *Bally Midway v. Joseph*, that was the San Francisco case, and I have a caption, actually, for it in here.

Hicke: Oh, all right.

Erspamer: And the other Sacramento case was *Bally Midway v. Ford*. I got to pick who got first, put the name up there on the first defendant name, name of the case. Jim Campbell was the guy from Hal Lipset's—it was Hal Lipset 's firm, the investigator was—if you remember Hal Lipset, now, I think he's still around.

Raven: I think he is, yes.

Erspamer: Jim Campbell was a young-looking guy who had straight hair, very long, almost like John Denver haircut, he would flip it back like this [*mimicking*]. [*laughter*] That was a fun case.

Hicke: Did you say you have the cite for that?

Erspamer: Yes, the case here is [*referring to a binder*], the Joseph case was Civil Action No. 83 36 39 and Spencer Williams, here we are—

Raven: Spencer? Oh, we had a good judge.

Erspamer: Yes. And the Sacramento case, as I said, was a Judge Schwartz, that was the Ford case. Let me see if I have anything here on what the case number was. They're both filed the same day.

Hicke: Also, you didn't tell us how all this turned out. We're left hanging with it.

Erspamer: Oh, well, yes, the case ended up, we got an injunction against everybody. We won, we beat them all. There's not one single one that got off.

Hicke: And you had all this evidence?

Raven: Well, Bally must have been pretty happy about this.

Erspamer: Bally was very happy. They were sort of winding down the program because it was very expensive, and I ended up turning over all the judgments. We got to a friend of mine who started his own practice and, on a contingency, anything he could collect, he would get 1/3 and Bally would get 2/3. He did very well. He struck it rich on a couple of them, someone who ended up selling their business, and there was a couple hundred, \$300,000 judgment or something, and he got a hundred grand out of that. He was very happy—one-third, you know.

Raven: Was he just going into practice?

Erspamer: He just gotten into practice on his own. He was a classmate of mine from Michigan.

The other thing I remember from that case is, you remember there was one lawyer in Los Angeles—I'll see if I can remember his name—who represented a number of the defendants, and he had what I thought were questionable ethics, really questionable ethics. We'd had a lot of problems

with him. I remember I was taking a deposition of his client—he was one of the people that fought. He fought until he ran out of money, and then he just capitulated—and they took an appeal, actually when they lost the injunction, to the Ninth Circuit. Anyway, I was taking this deposition of his client, and we finished the deposition. You know, the court reporter is still there, and the lawyer says to me, “Can you, when you get the transcript, make me a photocopy, and send me a copy of the transcript?” I said, “Well, no. If you want a copy of the transcript, you can order it here. The court reporter is right here, just order it.” He says, “I don’t want to pay for it.” I said, “Well, I don’t do things that way. I’m not going to circumvent the court reporter and I have no reason to do so. If you want a copy you can get it from the court reporter.”

So he pulls out his little notes with our caption on it and he said, “Well, I demand to see Mike Carroll,” because Mike Carroll is moving his way up the chain. I said, “Well, first of all, I don’t think Mike Carroll is here today, but I can tell you one thing: that this will not change. I don’t care who you talk to, we will not give you a copy of this transcript free.” Then he started to get very aggravated, angry, and very loud, he says, “I demand to see Bob Raven immediately! Immediately!” And he started screaming on and on about how this is the custom to get the copy of the pre-transcript and so on, and I said, “You could appeal to God, but it’s not going to change. Bob’s not going to say anything different than what I’ve said because I know how he thinks.” What he did, and I’ll never forget this, I saved the transcript for a number of years, I don’t know if I still have it, he picked up all the exhibits from the deposition and threw them in my face. Can you believe that?

Raven: What was his name again?

Erspamer: I can’t remember his name, I’ll have to think about it, I’ll probably remember. Anyway, on the record I said, “Let the record reflect that counsel has just thrown all of the exhibits in my face.” To get on the record, good thing to do, and I’ll never forget this line. He said, “I didn’t throw them in your face, I tossed them in your general direction.” *[laughter]*

Raven: You should have said, “You won’t get more than five years for that.”

Erspamer: But you get a lot of that.

Raven: Was he a sole practitioner?

Erspamer: He was a small firm. I think he was a sole practitioner.

Changes in Law Practice

Hicke: Do people like that get anywhere with those tactics?

Erspamer: They seem to have practices. I'm always surprised, I mean, ask Bob, weren't you surprised at how some of these lawyers can make any money?

Raven: Oh, yes, there are some very bad lawyers, yes. Most of them are pretty good, but—

Hicke: Do they win cases? Are they successful with those tactics?

Raven: They're after money.

Hicke: Oh.

Raven: They're after fees, mostly.

Erspamer: Yes, there are, I've also noticed, Bob, I don't know if you've noticed it as much, probably even more if I had to guess, that what you see in litigation these days is tactics from the other side are really much worse.

Raven: Oh, I agree with you.

Erspamer: Changed a lot even in the 20 years, 21 years I've been practicing.

Raven: Well, look at the country. I mean, you know, a lot of—[pause]

Hicke: In the sense that people are losing their tempers, and ethical concerns?

Erspamer: Ethical things.

Raven: Taking advantage, adverse, improper advantage.

Erspamer: Right. And just being, they are more and more—

Raven: Miserable.

Erspamer: Kind of knee-jerk jerks—if I can use that phrase—who's job is to make everything as miserable as possible for you, and won't cooperate on anything.

Raven: Usually they're defending in a losing case, or else they're trying to bring a plaintiff case that's lousy.

Erspamer: Correct, yes.

Hicke: Do you have a sense of why that is happening?

Erspamer: I don't know. I think it has something to do with the quality of the people that are going to law schools these days. Maybe the culture, generally. What do you think, Bob?

Raven: I think the culture has a lot to do with it.

Erspamer: I hate to, I'm not that old, but—

Raven: I mean, look, I get on BART, and there are these big signs, "These seats are for people with problems or senior people," you know. So I figure when I'm 75, which I am now, people will give me a seat. Well, I'll get on the train, and the seats are full. A lot of them will be young women, but not only young women, of course. And they stay right in their seats with their nose buried in a book, and I'm left hanging onto a pole.

Erspamer: They come from Concord or somewhere.

Raven: Yes, well beyond that, what's the place?

Erspamer: Bay Point.

Raven: Bay Point.

Hicke: Yes, we're out of tape—

[End Tape 21, Side B]

[Begin Tape 22, Side A]

Erspamer: —and people getting in more for the money now than they used to. People make a lot more money, as you mentioned earlier, I mean, a hundred thousand dollars to start? And you know as well as I do that those people are largely worthless the first year. I mean, they do very limited things. That's too strong a statement, but they're not much help the first year. It takes years.

- Hicke: What about the changes in practice, such as lawyers advertising and that kind of thing, so that perhaps, it's a more aggressive atmosphere?
- Raven: Oh, I don't think there's any question it's much more aggressive.
- Erspamer: Yes. That's a big reflection of it. There are other causes. Well, in a way, I think a lot of it goes on with clients. The kind of things that go on with clients now where people try to steal your clients away from you is worse, much worse.
- Raven: A lot of it, too, is just a difference in the philosophy of lawyers then and now. I've told you about the case we lost and how he said it wasn't our problem to worry about.
- Erspamer: He let go of things quickly.
- Raven: He let go. You have to. He said, "We're the lawyers, we're not the judges. So we do our best, we play them as best we can. You know, the only thing—then it's up to those judges." He says, "You got your right of appeal."
- Erspamer: Yes.
- Raven: People like Alioto thought Clark was great. They all loved him because he was just good to plaintiffs.
- Hicke: I'd like to ask you: how did you learn how to try cases?
- Erspamer: Well, I was actually lucky in a lot of ways. We were fairly aggressive about getting good work. I mean, I was always volunteering when I was young to take depositions and do things, and there are a lot of people that kind of shied away from work.
- Raven: Yes. Who all did you work for in addition to me? You worked for me.
- Erspamer: I worked for you most of the time.
- Raven: Did you work for Mel?
- Erspamer: I never worked with Mel. The only other—
- Raven: You worked for Brosnahan?

Erspamer: The only other person I worked with was Garrett.

Raven: Well, he's a good person to work with.

Erspamer: Yes.

Hicke: Did you go along to trials that Bob was handling?

Erspamer: Not so much.

Raven: We were not so much in court with cases. Usually they—

Erspamer: They settled. Yes, a lot of those cases settled. I had a couple smaller ones. Bob had given me an arbitration I did on my own, a few things like that, but the—I think I learned a lot of my skills because I took a lot, a lot of depositions.

Raven: You certainly did.

Erspamer: I got to know that pretty well. I think you have to push yourself, always, as a lawyer, and you have to be trying new things. If you don't do it, you kind of stagnate, and your skills decline. I think it gets harder and harder, given the rates the way they are now, I mean, rates for partners are three and four hundred dollars now.

Raven: One thing, coming back to Mr. Clark, that was a good thing he did to me.

Erspamer: Yes.

Raven: Because after, I did it to all of you. I mean, do a big case action.

Hicke: That's kind of what I meant—So we've got this firm culture.

Erspamer: I remember the first deposition I took was, I came into the office, just like I did, I was brand spanking new, and somebody was sick. There was some deposition needed to be taken down in San Mateo. I got handed a witness file about this big, about three or four inches thick, and they said go down and take it. I said where's San Mateo? *[laughter]* Can I at least get directions? So, you know.

Hicke: Those kinds of stories are so great because they tell how things get done, which is funny, really, but that's how you learn.

Ersparmer: So I learned—a lot of it depends on how anxious you are and also depends on how quick you can get up to speed on something. But I didn't have any trouble taking that deposition. I looked at the documents. I had about 15 or 20 minutes before. I had breezed through them, and I asked questions as I went along. I marked a document, and I read it along with the witness, and I asked questions, and it went fairly smoothly. Came back, although, there had been a lot of fighting, as I remember, at the deposition. A lot of yelling—Where did you get these documents from?—a lot of questions I didn't know the answer to because I was just handed the file, and it was rough. The first deposition is always a little rough, but—

Raven: But you know all that was better than how Shuman used to do it. He would call me up and, "Bob," he said, "We want to file a lawsuit. This is what it's all about. Would you draft a complaint for me?" And I said, "What's the guys name?" "You don't have to know the guy's name!" So I'd draft it up and sent it up to him. Gosh, nothing happened for about a week. Finally, I got this call, and I came up there, and Shuman said, "Bob," he said, "We have a little problem here. Ralph L. Smith is dead." I said, "Well, who's Ralph L. Smith?" "Well, he was the guy we were going to sue." *[laughter]*

Ersparmer: How do we serve him? *[laughter]*

Raven: Ralph L. Smith. I'll never forget that.

Hicke: So you'd say Bob's style, in training people, is to kind of let them move ahead as much as they can?

Ersparmer: Yes. And you'd work with Bob for a number of years. After a while, Bob would give you a case, and you'd run it. You'd say, "Trust your judgment and come to me when something's up and we'll talk about it, but other than that you run with the ball."

Raven: Well, I had an awful lot of cases in those days.

Ersparmer: You had a tremendous number of cases. You had 15 or 20 lawyers working with you. It was probably impossible for you to handle them all yourself. The other thing I remember about Bob is that we used to have these things—it's kind of funny, a little funny story, too—where we used to have a rotation policy where associates got rotated. You remember that?

Raven: Yes, yes. All those rotations.

Hicke: To different departments?

Erspamer: Different partners in the firm, and after I came to the firm—

Raven: Share the responsibility around, and like that.

Erspamer: Yes, you're supposed to go every couple of years, you're supposed to rotate. This was something I noticed, this is my personal observation. People didn't tend to rotate off Bob's team, if Bob didn't want them to. Some people stayed six, eight, ten, twelve years. I was on there a long, long time, and no one ever said a word to me about rotating, but all the other people were rotating. When Bob liked somebody, you tended to stay there. Peter Pfister, or Kathy Bagdonas, or Kathy Fisher, some of the others, I mean, you tended to be there quite some time. Not a word about rotation. *[laughter]* Is that true, Bob?

Raven: That's true. *[laughter]* We had a lot of cases.

Erspamer: We did, yes, and obviously there are inefficiencies every time *[laughter]* just to move people around, and it would be really hard on the cases to get people up to speed, and expensive for the client.

Raven: You know, one thing, I think I was lucky, I kind of complained about Mr. Clark and so forth, of sending me out on that big *Embassy* case, but the thing that was good about it is I became very well known. Here's this young guy going up against Gene Bennett, Arthur Dunne, and so forth.

L. Raven: Well, they had to make him a partner to try the case.

Raven: I was a partner in, what was it, four years?

L. Raven: Less than that.

Hicke: I know you did.

Raven: Which in those days was unbelievable.

Erspamer: Oh, really? What was a partnership?

Raven: Oh, about ten years.

Erspamer: Even longer than it is now?

Raven: Oh, like George Clinton, hell, he didn't become partner until long after I'd been. He'd been there, he carried a briefcase around for the general in the war. *[Laughter]*—

Erspamer: Wasn't there a lot of resentment, then, when people were—?

Hicke: I think that was true of all the law firms—in the City, at least, probably in the country, too.

Erspamer: I didn't know that, I didn't know about that.

Raven: Well, I think there was a lot to it. See, because Gene Bennett would get his team, Charlie Prael, and Edlund, people like that, and that was a great thing for them, just like this was a great thing for me to get Mr. Clark.

Hicke: But I think, in general, they didn't make partner—

Raven: Yes, they waited a long time. I was reading Hart Clinton's booklet recently, he did a story of his life, and God, I forget how long it was before he became partner.

Hicke: I've forgotten, too, but I know it was long.

Erspamer: Many, many years. Most people these days—you tend to either make it or, if you don't make it, you tend to leave.

Hicke: That's another thing: nobody ever moved around from law firm to law firm.

Erspamer: How do you feel about that, Bob? That's something we see a lot of every day, with Raoul Kennedy recently, you know, coming over from Crosby, and then staying only three years, and now he's moved on to Skadden, Arps; a lot of movement.

Raven: Well, can we shut this off for a minute?

*[Tape interruption]*

### **Intellectual property**

Hicke: I was just asking if we could talk a little about the advent of intellectual property law practice?

Erspamer: Well, my first intellectual property case was two months after I started practicing law.

Raven: I didn't realize that was so long ago.

Erspamer: And that was in '78. It was a case called, I can't remember the guy's name, it was TransInternational Airlines, it was later called *TransAmerica Airlines, v. AirWell, Inc.* It was a livestock loading system that fit inside a DC-8 aircraft—it was used to ventilate and restrain animals, like cattle, if you were selling prized cattle, or horses, or sheep. Going all over the world, Shannon, Ireland, or to Australia and so on.

Raven: Buy race horses that way, did you?

Erspamer: Buy race horses that way. It was a very ingenious system, because it had a very high survival rate. It used to be that when animals were transported by airplane, you would lose a lot of them, and they would be very expensive animals. They would be breeding horses.

Raven: Rough air.

Erspamer: Rough air, and they would get very excited, and there was no really good restraint system, and this is a beautiful system. It was modular, very modern, and the draftsman at the fabrication shop decided this is a great system, and the fabricator decided, "Well, I'll make a little extra," and so he started selling them to Singapore Airlines, Korea Airlines. He just copied them and sold them around the world. That was my first intellectual property case, and it was with Neil Falconer[Steinhart firm]. If you remember him. We tried that case—

Raven: He was the guy I was thinking of, by the way, from—

Erspamer: From Lafayette?

Raven: Yes. From the old firm, I was trying to come up with his name.

Erspamer: Neil Falconer?

Raven: He must be older than I am now, I think.

Erspamer: He retired.

- L. Raven: He probably was then, too. *[laughter]*
- Erspamer: He is probably about the same age, 76, 77, maybe.
- Raven: I am not too far behind him. I'm 75.
- Erspamer: Anyway, that was a trade secret case. We brought it as a trade secret case. And I did a lot of those cases for many years.
- Raven: Oh, did you?
- Erspamer: Even at Morrison, copyright cases and trademark cases, a lot of intellectual property.
- Raven: And that was before we had the gang that we have down in Palo Alto?
- Erspamer: Long before that. And then I told Peter, I wrote several memos—when Peter Pfister was department chair—to him saying, this is going to be a really big area, and we've got to get more people who are trained in how to do this kind of thing. I must have done fifteen to twenty trade secret cases over those years.
- Hicke: How did they come in to you?
- Erspamer: Sometimes they came in to the firm. Usually, they were kinds of emergency things. Somebody would call you up and say, "Look, this case got filed, and we are looking for somebody to do it." There were a lot of those; there were some that came in through—like Monsanto came in through Dave Nelson, actually. He knew somebody there, and we'd do that case for them. That is the only case I ever had in my life where we were the defendants and we settled it by the plaintiff paying us money. *[Laughter]*
- Raven: I even tried one of those cases, one time, right when I was quite a lot of years. I went back to Washington D.C. and argued it before that three-judge court. I can't remember the case, but it was an intellectual property case. It was just really starting then, in, when would we say that was?
- Erspamer: I would say it was really starting to take off around 1980, 1985.
- Raven: Well, when did we get that gang in? Down in Palo Alto?

- Erspamer: That was later. That would have been about 1988, 1989. Kind of along then.
- Raven: Because we've got some really wonderful people down there.
- Erspamer: Oh, we do. But it is like I said, actually, Mike Jacobs and I went down to interview Tom Ciotti. We were on the search committee for IP people. I put together a bunch of names, and Tom Ciotti was on it, and we talked to a bunch of other people at the same time.
- Raven: What's the lady?
- Erspamer: Oh, yes, what is her name? There were several very, very—
- Raven: But she handled more cases.
- Erspamer: Kate [H.] Murashige?
- Raven: Yes, yes. She handles more cases than anyone in the country, I think.
- Hicke: Was there any kind of training in law school for that type of work?
- Erspamer: No, not a lot. You know, when I was in law school, computers weren't even out. When I was in law school, they brought in LEXIS, a research thing into our law school, my third year of law school—that was 1977—and it was free, and I got trained on it, but personal computers were—
- Raven: You trained on LEXIS in law school?
- Erspamer: Yes.
- Raven: Well, that's pretty good.
- Erspamer: It was the first year that they were very good about that. I didn't buy a computer until—maybe 1983, or 1984 was the first time I bought a computer.
- Raven: I just got one for the first time and had it placed on my desk.
- Hicke: I think IBM just came out with the first PC about then.
- Erspamer: 1982 I think, or 1981, and I bought a book about computers.

Raven: Boy, you really got into that early, didn't you? God, that is great.

Erspamer: I still do it, I have a trade secret case that was up for trial in March. We settled it with an all-night marathon session the day before the trial started. I still do a lot of trade secret cases. It's interesting because it combines a lot of science and math, sometimes, with law, and you learn new areas.

Biotechnology: I had a couple of really interesting cases—one on TPA, you know, that they give to heart attack victims, they call it tissue plasmanogen activator, that thins your blood out and dissolves blood clots. It has to be administered within an hour after someone has a heart attack, and usually that takes care of it. Yes. It saves a lot of people. At that time they charged \$2,200 a dose, however, so it was kind of expensive.

### Salver Brothers

Hicke: Before you have to go, I have a couple of questions. Are there any more cases that you want to talk about?

Erspamer: There was one other very interesting case that we worked on together. It was sort of the *Dallas* story of California. I am trying to remember the family name, the farmers, the cotton farmers down in Fresno area. Down in the San Joaquin Valley.

Raven: Oh, yes, the old boy that had the big farm and—

Erspamer: There were two brothers—it is the story of two brothers. I'll think of the name in a second, but I have all these here. They ran a huge farm. They had 50,000 acres, and there were two brothers that ran the farm. Fred—

Raven: Fred, that's right. What the hell was the other name?

Erspamer: And Everett Salyer.

Raven: Yes, that was it, Salyer! They had a young son.

Erspamer: They had three kids. I forgot the names now—they had a young boy in his twenties who was—

Raven: Who was kind of taking over—

Erspamer: Who was taking over. Then they had the daughter's husband, John somebody, from Richmond, Virginia, who was the in-house counsel.

Remember? They ended up getting divorced, actually. Anyway, this case was—C. Everett Salyer and Fred Salyer were brothers, and they ran this huge farm. They started out very small and began acquiring land, very hard-working.

Raven: What is that little town there?

Erspamer: Corcoran? It is near Corcoran, California. Fred and Everett got on really well. Fred ran the farming operation, and Everett ran all the finances. So one did one thing, and one did the other thing.

Raven: A lot of stuff went to Japan.

Erspamer: Yes, they sold a huge amount of cotton to Japan. You and I were going through one of the fields there kind of taking a look at these cotton plants and pulling up little things of cotton. And everything seemed to go smoothly until they were in the Reno Airport together—Fred and Everett—and Everett had a heart attack in the bathroom at the Reno Airport and died on the spot. He died in Fred's arms. His widow did not want to—she wanted to cash out, and they had a very highly developed estate plan to keep the farm in the family. She wanted to cash out, and she wanted to get out of all these agreements that she had signed, saying that she didn't understand them, etc., etc. And so she just turned the whole thing into turmoil, the whole family just got into a bitter battle, almost like the Ewings in *Dallas*.

Hicke: You are talking about the TV program when you said *Dallas*?

Erspamer: Yes, correct. Yes, the *Dallas* TV program. Then as the case went on there, more and more dirt came out.

Hicke: Oh, I see.

Erspamer: *[laughter]* I remember that very vividly. Anyway, there was a *huge* battle. Remember? We had [Robert A.] Rosenfeld over at Heller Ehrman was on the other side.

Raven: Oh, that's right, yes.

Erspamer: And we had taken the case.

Raven: It was Bob Rosenfeld, too.

Erspamer: Yes, Bob Rosenfeld.

Raven: Good lawyer.

Erspamer: Yes, he is a good lawyer; he is now chairman of that firm.

Raven: Well, I think someone just took over, but he has been up there until now.

Erspamer: Around ten years, yes.

Raven: Yes, good guy.

Erspamer: Very nice guy, and we had taken over for a firm named Kaplan, Bushnell, Gaines, & Gaines.

Raven: Where were they from?

Erspamer: They were from Century City. I remember Rosenfeld came up and said very early on at a meeting we were at, he said, "Boy, am I glad you guys are coming into the case. Those guys from that Bushnell firm, they are impossible." And I read some transcripts—

Raven: They were probably trying to—

Erspamer: No, no, actually we got along with them pretty well. We ended up settling the case, but that was back when the price of land was plummeting, remember. Farmland was coming down. Anyway, he said, "Read the so-and-so deposition of one of the daughters to give you an example of what we are dealing with." And I read this transcript, and these lawyers were just horrible. They talked more than the witness did. They were screaming. They were just—Totally irrelevant. And they just raked her over the coals. There were a lot of inappropriate questions. You know, it was terrible.

Raven: You say there was a guy there who then went back to the East Coast.

Erspamer: Yes, I was trying to remember his name.

Raven: Was that the guy that used to be with Alioto, years ago?

Erspamer: No, the guy that I am thinking about that went— Oh, here it is! I could have seen it in the deposition.

Hicke: Well, talk about a miracle!

Erspamer: In the list of management for the Salyer Land Company; we had several, the Mobile Canal Case was another case later that we worked on. Well, let's see what we've got here. Robert Dowd and Lyman Griswald. Remember Lyman Griswald in Hamper? Right next to Corcoran. He was the local counsel, Lyman Griswald. He was about ten years older than you were at the time. Very nice man. And Rosenfeld, I see him here, and John Penn Lee, that was the guy, the son-in-law, who lived in Corcoran. Fred Salyer, and his son's name was F. Scott Salyer.

Raven: Scott was the young guy. We called him that. He went by Scott.

Erspamer: And you were the lead on the case, and A.C. Johnston—

Raven: Was A.C. on it? I guess he was on it, yes.

Erspamer: Yes, A.C. was on, and me and then David Johnson.

Raven: David, of course, was super, match for all of us.

Erspamer: David Johnson had gone into this warehouse.

Hicke: Paralegal?

Raven: He worked with Jim Brosnahan, and he was one of the best people around.

Erspamer: Yes.

Hicke: What were you saying?

Erspamer: Well, they produced a bunch of documents—we had just warehouses of material—and he went in there and didn't emerge for a month. We didn't see him for a month. He came out with a summary about two inches thick of all the documents, all the key parts of the documents, with quotations, with cross-references.

Raven: Oh, he was so good.

Erspamer: It was like the whole case was completely organized, and I couldn't imagine anyone doing a better job.

- Hicke: And no computer!
- Erspamer: Tying things together.
- Raven: First time I saw him I came into the firm, early morning, and this guy was sleeping on the table like this. Of course, he worked with Brosnahan.
- Hicke: I want to go back to what you were saying about all those inappropriate questions. Is there anything that can be done about that?
- Erspamer: Well, you could always adjourn the deposition and move for a protective order from the court. Lawyers don't like to do that. Then you have to restart the deposition later. We probably should have moved for a protective order. They were just doing it to make her uncomfortable, to inflict pain.
- Hicke: Then they would have to do the deposition over again?
- Erspamer: Yes, then they would have to resume the deposition on other questions.
- Raven: A decent firm would have a protective of a certain part of the transcript.
- Erspamer: Then also you can limit the summation, yes. Say a transcript under the protective order too, but I told Rosenfeld, "You won't see any of that kind of stuff from us." And he said, "I know that, and we appreciate it too."
- Raven: Oh, they were on it before we got into it?
- Erspamer: Right, they were in it from the very beginning, and we took over from this Bushnell . . . Kaplan, Bushnell, Nowland, Gaines & Gaines.
- Hicke: They fired them, and you came in?
- Erspamer: They fired them. They fired them, then we came in, and Bob took over.
- Raven: I forget who I got a call from on that, or maybe they came to see me.
- Erspamer: I don't know; it might have been from Lyman Griswald, I am not sure.
- Raven: It could have been, yes.
- Erspamer: I think he might have known Lyman, who is quite prominent down there in the Valley.

Raven: Yes, I think maybe that was it.

Erspamer: He was in Hanford.

Hicke: Was he a lawyer?

Erspamer: Yes, he is a lawyer, works for Griswald Bisigue, LaSalle, Cobb and Dowd on North Dowdy Street.

Raven: Oh, yes, that is exactly how it happened.

**Raven Heads the Firm [1974-1982]**

Hicke: There is one other major topic here when you are done with this. I don't know if this is a major topic, but can you talk about when Bob was head of the firm?

Erspamer: Well, Bob was head of the firm very early on in my tenure. I think he was; when did you step down from that?

Raven: When we brought Carl [Leonard] on and Carl was virtually—

Erspamer: It was Marshall, then Carl.

L. Raven: Yes.

Erspamer: Marshall Small was in for about a year, for a really short tenure. You were chairman of the firm when I came. I don't remember how many years you had been.

Raven: I've got a plaque in my bedroom that says when it was.

Erspamer: It was in the 1970s, somewhere in the 1970s.

Hicke: I am sure we've got that.

Raven: It's an eight-year span.

Erspamer: What I remember about the firm at that time, and it continued through some of the other chairmen, is—

Hicke: Can I stop you?

[End Tape 22, Side A]

[Begin Tape 22, Side B]

Erspamer: —is the respect that people had, almost across the board, for you when you were chairman. You know, obviously there's always some problems, but we seemed to pull together pretty well in those years—

Raven: Carl did a great job. Pfister did a great job.

Erspamer: Yes. You go through some times that are not so good, and you go through some times that are pretty good, but people pull together, and I think the values of the firm were very much preserved and still are to a large extent.

Raven: Well, Dunham's doing a great job.

Erspamer: Dunham's doing a hell of a job. Peter did a hell of a job. Peter Pfister did a really great job. They are the best people we have—the people in that job—the very best that we have.

Raven: Yes, I agree.

Hicke: Were there any major changes when Bob was head of the firm?

Erspamer: Growth. Lot of growth.

Raven: A lot of growth. A lot of growth.

Hicke: That's a challenge.

Erspamer: Yes, that is a challenge.

Raven: As a matter of fact, Carl [Leonard] was my assistant for a while.

Erspamer: Yes, he was the managing partner.

Raven: Yes, he was supposed to take care of the day-to-day stuff. I took care of the big picture.

Erspamer: Well, it's hard. I imagine it was tough to practice for you, you had so many cases, and then to be doing this also. You practiced, didn't you, when you were chairman?

- Raven: Pretty much full-time.
- Erspamer: As I told Billy Schwartz, who just—
- Raven: Listen, I used to come in that place at 5 o'clock in the morning and leave at maybe 10:00 p.m.—
- L. Raven: That's seven days a week. He never took a vacation—*ever*.
- Raven: Never took my sabbatical—most of the rest of them were going out the door—
- L. Raven: You did take a sabbatical—one Friday.
- Raven: We never took our three-month sabbatical.
- Erspamer: Well you should have, because it's a—
- Raven: No, I loved it!
- L. Raven: He only did what he wanted. He did exactly what he wanted to do.
- Raven: Kay's the one who suffered.
- L. Raven: Yes, right!
- Hicke: You started to say something about Billy Schwartz?
- Erspamer: Billy Schwartz—he's leaving the position that Carl used to have—the assistant—the second-man job.
- Raven: He's been a good man.
- Erspamer: He's been a very good man too, and I said, "Well, it'd be kind of nice to get back to practice." He said, "Yes, it was supposed to be 50/50." I said, "Yes, I know, it probably ended up—3/4's and 3/4's—150 total!" He says, "Actually, a little higher." *[laughter]*
- Raven: He's a great guy.
- Erspamer: He's a very good guy, very smart, very able. You know, the one thing that attracted me to Morrison in the very beginning—a little story—was the pro

bono work I was able to do—that very, very significant case with the veterans, the big class action for the disabled veterans, that went to the Supreme Court.

Raven: Yes, that was really pro bono, wasn't it? Huge case, too.

Erspamer: Huge case, tremendous amount of work.

Raven: I think the judge really encouraged that—She was very impressed with that, I think, that our firm, and you accepted it—

Erspamer: Yes, we put a lot of work into this case—we put \$3 million worth of work into that case over 10 or 11, 12 years. I remember when that case came in, because I had a personal connection because of my father being a veteran and being in these atomic bomb tests and having cancer and having died. The group that was the plaintiff was called the National Association of Radiation Survivors. They had asked us to do something about this \$10 maximum fee, because none of their people could hire lawyers to fight the VA [Veterans Administration] on the disability claims. They had cancer and so on, and they were trying to do it themselves. Some were writing briefs; from the hospital, handwritten briefs, it was just terrible.

Hicke: What was that about the fee?

Erspamer: It was a maximum fee to pay an attorney to represent you before the VA. It was a law that came out of the Civil War, and it had been passed in 1862 to protect widows from overreaching by unscrupulous lawyers during the unregulated days of the bar back in the 1800s. It's just been perpetuated ever since. It was very unfair. Anyway, I remember I was going into this pro bono committee then, and I'd only been at the firm three months. I was brand spanking new, I just came over from Steinhart. I think it was early 1982, or 1981, maybe. I can't remember the year, but the senior partner who wrote the books about writing style—?

Raven: Girvan Peck.

Erspamer: Girvan Peck. Girvan Peck was the head of the pro bono committee at the time. He didn't even know me. I didn't know anybody on this committee. I went in there and said, "I really want to do this case." I got asked a few questions, and you know, there were a couple of people who said this might take a lot of time, and raised questions about whether we ought to do it, I

guess. What about some of our clients that might have been involved in these atomic bomb tests, you know, like Reynolds and General Electric and some other clients. They were worried about that. I remember Gervin just saying, “Well, if we can’t do a case like this, then we should not be in business. This is the very type of case we should do, and we should support him wholeheartedly.” And within about 30 seconds the vote was unanimous to take the case on. Girvan was a real leader that way.

Raven: Well, see, Mr. Clark, too, had established a reputation for that. He was a great believer in that—what’s that organization in San Francisco?

Hicke: Legal Aid Society.

Raven: The Legal Aid Society, yes. He was one of the founders of that.

Erspamer: I’ll say that case went on for 12 years, and the support from the firm was tremendous—always tremendous. I learned a lot. I mean, I cut my teeth a lot on that case. We had that whole—remember, Bob, that horrible incident where we caught them shredding documents at the VA? I don’t know if you remember that, but it was back in the middle of the case. I got a “deep throat” letter—an anonymous letter from someone inside the VA—that said, “You’d better do something quickly because they’re in the process of shredding all the documents you sought in discovery in Washington, DC. They’re all going through the shredder.” And we got a restraining order, just based on the letter, the anonymous letter. And they saved the last, I think, 25 or 30 boxes. They’d gone through thousands of boxes through the shredder. Mrs. Patel [Judge Marilyn Hall Patel] was not too pleased with this.

Raven: Well I bet not.

Erspamer: She came down really hard on them. We took a lot of depositions on it. We ended up getting \$150,000 sanction for all the time we spent on the investigation. And she appointed someone outside the agency, someone at Wilmer Cutler & Pickering that you had recommended, I remember—

Raven: Oh, probably what’s-his-name—Oh, God I know it. The guy that used to work with the President on judges—the guy who I wrote the letter to—or I called up on Wally Tashima, and I said, “How do I do this?” and he said, “You address the letter to the President, but you send it to me!” And he even

worked for Carter when he came over. He has a big firm in Washington. Oh, what was his name?

Erspamer: I may have it in my list here.

Raven: Wonderful guy.

Erspamer: Wonderful guy. He was appointed the special master. And he took over their whole discovery. Because not only had they shredded all of these documents, they lied in interrogatory answers, and they lied in document responses—

Raven: It's our government he's talking about.

Erspamer: Yes, it was terrible, once you got inside and looked around under the surface, it was just a bunch of maggots.

Raven: Did Patel hold for you people, but then you lost on appeal?

Erspamer: Twice. She held first for us on one theory, and we lost on appeal on a 4-2-3 split on the Supreme Court of the United States. It was a direct appeal.

Raven: Did you argue it?

Erspamer: I argued the case.

Raven: Well, I'll be damned.

Erspamer: I argued the case in 1983 or 1984, 1984.

Raven: Who was Chief then, Rehnquist?

Erspamer: No, not Rehnquist, the guy from Minnesota.

Raven: Warren Burger.

Erspamer: Warren Burger. I argued the case. Then it got reversed on the facial challenge to the whole statute altogether. Then it got remanded back to trial on the "as applied challenge" which was directed to these very complicated radiation cases, as sort of a sub-class where you *really* need a lawyer. And we were able to show statistically that if you had a lawyer on a radiation claim, you had a 2,500 times better chance of winning than if you didn't

have a lawyer. We won again and went back up to the Ninth Circuit. We drew a very bad three-judge panel.

Raven: Who was that? Do you recall?

Erspamer: Yes, I do, all too painfully. Cynthia Holcomb Hall.

Raven: Oh, hell, yes. A very conservative Republican.

Erspamer: Very conservative Republican. And then a Nixon appointee, from Hawaii, Choy, James Choy. He wrote the opinion.

Raven: Not very quick.

Erspamer: He just parroted the government brief, he didn't—and then the third one was Arthur Alarcon, who was in decline, I think, at that time. Arthur Alarcon?

Raven: Yes, very conservative.

Erspamer: All very conservative.

Raven: You had the most conservative bunch of Republicans—

Erspamer: —in the whole Circuit. The whole argument was just—

Raven: Alarcon's a smart guy too. But he's very, very conservative.

Erspamer: They all were, and they voted 3-0, and they just made up things. I mean they didn't fault—for findings or factual findings—Judge Patel at all. They just, they basically said, "Well, this is an issue for Congress to deal with and not the courts." Went back up to the Supreme Court again on a *certiorari* petition, and we only got one vote from Stevens.

Hicke: What happened to the \$10 fee? Is that all—at least that's what you're talking about—hiring the lawyer?

Erspamer: Yes, they actually muted it somewhat. The rule now is you cannot pay anything to a lawyer until you've lost once. And then if you want to try a second time or move for reopen for new evidence—

Raven: Is that right?

Erspamer: —then you can hire a lawyer. So you have to go through the whole thing—it takes several years—yourself, and then you can hire a lawyer and pay a reasonable fee.

Hicke: Is that a statute?

Erspamer: It's a statute, yes. And the other thing that changed was that, as a result of that case, I testified three times in Congress on judicial review of the VA decisions. Originally, you would never get judicial review of a VA decision. If you lost, you lost. That was it.

Raven: Were the Republicans the worst on this?

Erspamer: Yes, they were terrible. And finally, right because of all the scandal—

Raven: Who was in power, the Republicans or Democrats?

Erspamer: It was during—I remember the committee, Sonny Montgomery was the head of the House Veterans Affairs Committee at the time. Alan Cranston was head of the Senate Veterans Affairs Committee. I think it might have been under Carter. I think it was under Carter and maybe some under Ford, because I testified three times. And they would always get a huge number of co-sponsors in the House; they had, one year, 270 co-sponsors, which is 2/3rds of the House, and the Republicans got it blocked up in committee. Never got out of committee.

Raven: Who locked it up in committee?

Erspamer: Sonny Montgomery, Mississippi. The case really led directly to the first time they had a judicial review. Now on VA decisions. They created a new court in 1990, the Court of Veterans Appeals in Washington, DC. It's an Article Three Court. Things have changed a lot since then. Coincidentally, the first case argued in the Court of Veterans Appeals, on the first decision they issued on jurisdiction, was my case for my mother, on my father's death. A VA claim, service-connected death for leukemia from radiation exposure. Which was later granted, one of the few cases granted, so—really, I mean, that was always to me a pillar of the firm that would always keep you committed—at least from my perspective—committed to the firm. People get opportunities these days, they get solicited all the time.

- Raven: A lot of it goes back to Clark and Foerster and some of those people. They were believers in that type of thing. Mr. Clark said one day, going through the library one time, they had worked on a case for months and got \$10,000 for it. Mr. Clark then gave the money back to them. But it was a very important case, they thought.
- Erspamer: And you were always a big supporter of it—I remember on the NARS case talking to you about it a lot of times. We had some troubling periods of time. We had a schism in the plaintiff's group right before the trial. It was terrible. It was a mess, and one of the people was kind of a radical, a woman from Berkeley, Dorothy Lagretta, who was fairly radical in her approach, and she was investigated for some security violations of getting information that was classified that she'd gotten under the table from somebody at the time. It was a terrible, terrible mess. You have to take the client sometimes as you get them. And you can't do much with them. They are what they are.
- Raven: Who helped you from the firm on that case you tried?
- Erspamer: Actually, I did almost all the work myself in the beginning, but Mike Ram, who was a new associate.
- Raven: Mike was a good lawyer.
- Erspamer: Yes, he's a pretty good lawyer, yes. Kathy Fisher was nominally in charge, you have to have a partner on the pleadings, but I was an associate when it came in. Later, at the trial, we had—the trial lasted about nine weeks—we had a couple of other associates: Mike Zigler was one and I don't know who the other was—Rick [Richard E.] Romaniw. He didn't stay at the firm very long. He was a Vietnam veteran who had one arm—
- Raven: Now, who was against you, the government lawyers?
- Erspamer: Yes, it was the U.S. Attorney's Office here in San Francisco and the Civil Division in Washington, D.C.
- Raven: Hoover wasn't in charge at the time, was he?
- Erspamer: No, it was, I can't remember the guy's name—Steve Shirley I think it was, let me see—it was basically run out of Washington, D.C.

Raven: Who was president that time in Washington?

Erspamer: Well, the case lasted 12 years and so it spanned several administrations—Carter, Ford, I think. I guess it must have been Reagan for a while. Yes, Reagan was there for quite a while. The Reagan administration. I met a lot of very interesting people. People that I know to this day. As a matter of fact, I got a call yesterday from one of them—the head of the National Veterans Legal Service Project, the big pro bono firm in Washington that does nothing but veterans cases free of charge. That's all they do. Wonderful guy. Name of David Adelstone. He's coming out here and wants to use the firm's offices in San Francisco to give a seminar to teach people how to practice in this area. He does them free.

Raven: No wonder the veterans who came back from Vietnam just detest the country anymore— Look what they went through.

Erspamer: Rick Romaniw. He was one of those people who worked on the case; he came to the firm because he wanted to work on the case. He'd heard about it. He'd been in Vietnam. He was a lieutenant in the Army, and apparently a truck was booby-trapped. He tried to open the back door of the truck, and it went off, and his arm went off to here *[indicating]*. He was lucky he didn't get hurt worse, but he had an artificial arm.

Raven: That was the dumbest thing this country's ever done down there, Vietnam, I think.

Erspamer: I agree; I was in the thick of it. I was in college at the time, and I remember sitting there—they'd ended student deferments in my freshman year in college. You used to be able to get at least four years' deferments, but they decided that that wasn't fair. That was the right decision, it wasn't fair.

Raven: Lyndon [B. Johnson] . He really paid for it, didn't he?

Erspamer: Yes, he certainly did. Have you ever heard his tapes? You know, he's issued this . . . they have these audio tapes of all his conversations in the White House he taped?

Raven: The only ones you can't get are Nixon's.

- Erspamer: Yes, there's some very interesting things. Conversations with Bobby Kennedy and Martin Luther King, and so on. Garrett told me about them. They are very very interesting.
- Raven: There's a big fight going on now. They won't release Nixon's—his family won't.
- Erspamer: Right, a guy edited them, an historian, and has commentary that goes with them before each passage, and you can get them. They're *Books on Tape*. They're cassette tapes. In fact, if you're interested, I'll—
- Raven: Yes, I'd like to borrow them. I'll give them back.
- Erspamer: I found them fascinating. I listen to them in the car coming to work or whatever. That was a terrible time, though. I remember sitting there, a bunch of us sitting there, and the lottery started running numbers for people. Remember that, Kay?
- L. Raven: Oh, yes.
- Erspamer: And we're sitting around this room, about ten or twelve of us, all freshman in college, waiting for our numbers to be drawn. Some people were very happy, including me. I had 329, which meant that I was OK. The irony—I'll never forget this—the guy next door to me, Tom Bolstead, was born four hours after I was. I was born on July 24<sup>th</sup>, and he was born early in the morning of July 25<sup>th</sup>, 1953, same year. He got number 3. I got 329. He was gone. They just pulled him right out of there, yanked out, after his first semester, might have been second semester, but freshman year. He was gone in the Army. I never saw him again. Never knew what happened to him. But, those were tough times. I'm trying to remember what some of the other cases were, Bob, but that Salyer case was something.
- Hicke: So what happened on the Salyer case?
- Erspamer: We worked out a settlement where we would, we basically bought the widow out, and she got paid a lot of money. It turned out to be a great deal for her, because the price of land continued to decline for about ten more years.
- Raven: Yes, when we were there, it was going up.

Erspamer: Well, here's the *Northwestern Fruit* case. The one cantaloupe case. I happened to turn the page [*in a reference binder of cases*]. It's a 1984 case. *Northwestern Fruit v. Levi and Zentner, et al.* That's number C840556. Levi and Zentner was one of the packing firms. Here are all the lawyers. I have an old service list here. Look at all these people, I mean they go on for several pages. This is just the first page. See, here's a firm from Palo Alto, a firm from Fresno, Newport Beach—

Hicke: Maybe when you get the transcript back, you could just put a copy of that in with it?

Erspamer: Yes, sure. Or I'll send you a copy of this. I'll have my secretary copy these.

L. Raven: I am so impressed.

### Fujitsu

Erspamer: You had a lot of people working for you. Then, of course, we missed the big one, Fujitsu.

Raven: No. Hell, I was in charge of Fujitsu.

Erspamer: That's what I mean, we've missed it.

Raven: That's the biggest one yet.

Erspamer: The biggest one we've ever had. Bob, you may not remember this, but Dave was on it originally, and then he got you involved. Dave Nelson.

Raven: Well, Dave, remember, got ill in 1982, and that's when he had to have his first operation.

Erspamer: Heart operation, right.

Raven: I went over there by myself.

Erspamer: You went over there by yourself, and then when you came back from Japan—I'll never forget this—you walk into my office and say, "Well, how's it going, Gordie?" I said, "Oh, good, good." He says, "Well you know, I've got a little matter. I'm sure it's going to settle very quickly." I said, "I'm awfully busy, Bob." He says, "Yes, I know. I know everyone's busy, but if you could just help out on this for you know. I'm sure it's going

to settle. Just help me out a little bit on this.” I said, “Well sure, I can’t say no.” So I was the second one on it, and [Mike] Jacobs was the third.

Raven: Did you go to Japan?

Erspamer: I went to Japan many times. Twenty times, probably. I did the compilers. Remember the PLS compiler and the PL1 optimizing compiler? I had several other programs. These were all operating system software for mainframe computers and the copyright infringement issues, you know, copying the code. But, yes, I worked on that from—it was early ‘85 when you walked into my office. Anyway, if I’d been so inclined, I probably could have filed a suit against Bob for misrepresentation, because the case lasted ten years—it ended up taking 200 hours per month.

Raven: That’s the largest amount of money ever paid by a client.

Erspamer: It probably is, because there were, well, look, I have the communication list for this. The list of the names and numbers.

Raven: I got a letter from Naruto just before Christmas.

Erspamer: Oh really? This is, just our list of names and phone numbers. It takes up 25 pages of names. We have, sometimes, over 20 lawyers working on it.

Hicke: Morrison & Foerster lawyers?

Erspamer: Twenty lawyers working on it. And we used to stay at the Imperial Hotel [*talking over each other*]. Preston, we’d have the Palace Hotel, the Numazu Castle. We went there. The Numazu, which is on the Ibu Peninsula. They had a lot of earthquakes.

Raven: Did you ever go down to the fish cannery, fish place?

Erspamer: Oh, yes.

Raven: We did the whole thing.

Erspamer: I did the whole thing. The way I remember it is, the *karaoke* bars where, remember we used to—

Raven: Oh, yes.

Erspamer: And they would make you and Dave Nelson sing? *[laughter]* I think they did once or twice—

Hicke: I haven't heard that one!

L. Raven: I've heard a lot, but not the *karaoke*—

Erspamer: I don't think you have a future in that.

Raven: When Dave went into the hospital, I went over there by myself, and the first night they took me to a big, nice dinner up in a big hotel. I can never remember the chairman's name. He'd been just saved. They were going to put him in an airplane and send him down to Okinawa to be a *kamikaze* pilot. But anyhow, he asked, through an interpreter, because he didn't—most of that stuff came through interpreters. But he asked if I had ever been to Japan before. And I started to say, and I came so close to saying, I was about to say, "Only in the air." But I said, "No, I've never been to Japan before." I got to thinking, boy, I don't want to say that. Once in my life I didn't get my foot in my mouth.

Erspamer: We had so many people on the client side too, I'm looking at this list, there are just, Michio Naruto, who you mentioned, Naruto.

Raven: Naruto, he's the greatest.

Hicke: He's the chairman?

Erspamer: No, he was the general manager.

Raven: Now, he's the second man in position over there, he told me, according to his letter. Naruto-san.

Erspamer: Yes, we had Murita-san, the interpreter. Yuri Murita.

Raven: Who was the wonderful guy, one of the top guys? He's been retired for years. In fact, he was the first one to speak.

Erspamer: I remember him, yes, I don't remember his name.

Raven: A very gentle person. First time we had, when Tom Barr started to question him, and—

Erspamer: I don't remember which one he was.

Raven: Tom really met his match in that case, didn't he?

Erspamer: Oh, Barr was just totally inappropriate for a case like that because he was such a hard driver. He was from Cravath, Swain & Moore. He was really, he was kind of obnoxious, wasn't he? I thought he was. Very aggressive. And they originally had that Scottish guy, as the third neutral arbitrator.

Raven: [Donald] MacDonald?

Erspamer: He didn't like him at all!

Raven: He *hated* Barr. And he *loved* Bob. And so we were able to negotiate ourselves, they wanted out of that, MacDonald out of there so badly that they—

Raven: They paid a lot of money for getting him out.

Erspamer: They paid a *lot* of money.

Raven: I remember when we were in London or France or some damn place, and we stayed, had all those three arbitrators—

Erspamer: Right.

Raven: I had picked what's-his-name from Stanford [Robert Mnookin]—

Erspamer: Donald MacDonald.

Raven: Both sides agreed on a Canadian. And they had picked this guy who used to be with the railroad down in—

Erspamer: Yes, he used to work for IBM, right? Something, yes, I forgot the guy's name [John Jones].

Raven: And then the really funny thing about the guy from Canada is that Barr was the one who searched him out. He called me on it; he said, "I think this guy would be pretty good." He said, "If we get him out here, will you come back to our office and take a look at him?" And I said, "Yes, we will." Then, Barr got rid of him, he paid a lot to do it. Then MacDonald went, he was Canada's man to the Court of St. James in England.

Erspamer: He was a very prominent guy.

Raven: Oh, he'd been a big man in parliament, or whatever they call it in Canada.

Erspamer: Yes, I don't know if he really ever understood what hit him, as to why he got—

Raven: But he liked our group.

Erspamer: He liked, they liked you particularly. John Jones was the other arbitrator, the one that IBM had hired, the party arbitrator. John Jones from Norfolk Southern.

[End Tape 22, Side B]

[Begin Tape 23, Side A]

Raven: We picked a good guy.

Erspamer: Yes, except he had a lot of money out there, didn't he?

Raven: He's still making a lot of money.

Erspamer: We had a lot of strange characters. We had a couple of experts, I remember, that were on the compilers. One of them looked like Jesus Christ, in the sense that he had hair down to the back of his—I forget his name. He was from up in Maine, somewhere way up in Maine. We had to go up to visit him, he would never come out here—

Raven: Do you remember the expert that I kept off the stand every time we brought him—

Erspamer: Oh, yes, that guy!

Raven: What was that damned guy's name?

Erspamer: He was from Boston. Very famous copyright expert. Mike Jacobs would remember. I didn't work on that part of it. Mark Rain was the guy that I am thinking about from Deer Isle, Maine. It took about fifteen hours to get up there.

Raven: It was up at the Claremont [Hotel] when they were going to put him on again. They brought him out again. He slept there in the hotel for two or

three days, and they put him up there, and I got up and said, “Your Honor, we have heard a lot about this, and we don’t need this.” And it was Mnookin, I guess, who ruled on it.

Erspamer: Here is McCarthy & Mackowan from McCarthy in Toronto. That is where he was from.

Raven: Yes, he was from Toronto, he had been very active in government, the Canadian government.

Erspamer: And the other story I remember from that case—you used to kid me about this one too. I was over there [*in Japan*], and I spent a lot of time over there developing the facts and interviewing witnesses and so on. I was at one of these dinners, they had great dinners, just tremendous dinners, they ordered sea urchin for everyone at this dinner. I don’t like sea urchin, but you sort of had to try it—

Raven: I didn’t try it.

Hicke: On a bed of rice.

L. Raven: I am sure you did.

Erspamer: So, I took mine, and they were sort of gross looking, smelled horrible, and I said, “Oh!” Then they gave me some sake to wash it down with, though. They were so nice to me. So I ate this sea urchin. I washed it down with sake. I was leaving the next morning to come back—or that night, I think it was. We took a 9 o’clock flight back. I am on the flight for about 10 minutes, 15 minutes, and I suddenly get sick as I have ever been in my whole life. And I was in the restroom the entire time. People were pounding the door, “What is going on in there?” I was a sick as I have ever been. I was sick for two or three weeks. I lost 25 or 30 pounds. And they couldn’t find out what it was, but it was this micro-organism in the sea urchin, apparently, it is more common now. It was *campelobactra*, I think is the name of it. It is really virulent, it could kill you. Severe dehydration and you can’t keep anything, can’t even keep water down. Anyway, people used to laugh about that for years. They just thought it was so funny, the sight of me sitting there. The client used to yell, “How you feel today? Feel a little sick, today? How is your stomach?” It was kind of mean, in a way.

- L. Raven: Yes, I think that is horrible, absolutely horrible.
- Raven: Who all was over there when you were over there?
- Erspamer: Jacobs and I did a lot of the early trips.
- Raven: And what's-her-name—Penny.
- Erspamer: Well, Penny came in much later.
- Raven: Oh, did she come later?
- Erspamer: And Jodi Jakosa, she was from early on. And it seems like a cast of thousands.
- Raven: And that big guy that is in London now?
- Erspamer: Rinck?
- Raven: Rinck was on.
- Erspamer: Rinck came on. He was on very early.
- Raven: Boy, we had a good crew.
- Erspamer: We had, oh, boy, later, Preston came in. Preston Moore. He is a very able guy.
- Raven: That is when Harold [McElhinny] came home. Remember that?
- Erspamer: That's right. Harold—
- Raven: Harold was in charge, there.
- Erspamer: They had a little problem.
- Raven: Well, I didn't mean to put what's-his-name ahead of him, but Harold is like that. Once Harold said, "Bob, I'm going home." Took the whole family, they all went over there.
- Erspamer: We had, let's see. Grant Kim was working on it early on, and then, Penny, Gary Rinck, Steve Schrader, Tom Vinje. You remember him. He is over in Brussels now.

- Raven: Oh, sure, Vinje was very much in on it. I'd forgotten that.
- Erspamer: He worked with me, he was the associate then.
- Raven: He's a good lawyer, isn't he? Good person.
- Erspamer: Yes, he's a good lawyer. And then it just kind of grew from there. Paul Jahn. Do you remember him? Do you remember Bill Bassel?
- Raven: Jahn was a young, very young. Then he went to college, that was before—
- Erspamer: And then he went to law school, and now he is back at the firm again.
- Raven: Is he back there? Where is he?
- Erspamer: I think he is in San Francisco, or Palo Alto. He's come back, maybe three times.
- Raven: He always speaks to me, very nice. I don't know this young guy—
- Erspamer: Got curly hair, very nice, very nice guy.
- Raven: He was one of our first hires. He and that young lady.
- Erspamer: Yes, I am trying to remember her name—Sarah Haller—was one of them.
- Raven: They both went over there, didn't they, yes? I remember that now.
- Erspamer: And the person I remember now, really well, is Bill Baskin, who set up our work room. He was a freshly scrubbed guy, he was very nice looking, very nice person. He went to law school too. He is practicing in Connecticut now.
- Raven: He is the one that I think I am thinking of.
- Erspamer: Very nice kid, I mean, he came in, and we had a tremendous—
- Raven: Didn't we send a couple of those through school?
- Erspamer: Yes, I think Fujitsu gave us some money, and I think the firm might have given them some money.

- Raven: I think that young woman and the young man. Yes.
- Erspamer: Yes, I think that is right, I had heard that, but, Baskin and I set up the computerization for the case, all the coding, for our preferred—We had such a mass of information, and you had to have some means of organizing it. So we set up the computer system for coding all the documents—a filing system—and we did that together. Baskin and I did it, and it was used for the whole case.
- Raven: Did you get down to their big plant?
- Erspamer: In Namazu?
- Raven: Namazu.
- Erspamer: Oh, yes, I was in Namazu several times, yes.
- Raven: Were you there when they put my tree up?
- L. Raven: Planted his tree?
- Erspamer: You know, I think I was there about that time.
- Raven: And then that big plaque? I think that is the only time that has happened for an American lawyer in Japan.
- Erspamer: In Namazu, that is where the Namazu Castle was. And I'll never forget this story either, this is one of the best stories ever. We used to take the Bullet Train down from Tokyo to Namazu when we had to interview witnesses or engineers at the facility. They usually put us up at the Namazu Castle, which was downtown, and it had folding doors and the whole thing. Well, one time we had to go on short notice, and they couldn't get us into the Namazu Castle. They were very worried about this, and they apologized profusely, but they had to put us into a different place, and it was really bad. I remember the rooms were—the whole room was about as big as this half of the table. And my feet went off the end of the bed. The bed was only about five and a half feet. The tiniest little bathroom, I mean, I was sitting there, in fact, I'll never forget this, the ventilation was awful, my sinuses were inflamed. I get up in the morning and hadn't slept the whole night. I was sitting there like this in the shower and one of these little hand jobbies that you have to go like this [*hand-held*

*shower head*]. I bumped my head here, bumped my elbow here, just tiny. I was in the shower, and I had this terrible fit, laughing fit, because I started to think, well what is Gary Rinck doing? Gary Rinck was 6'7" or 6'8". I am only 5'11" and I'd never seen—We came down to breakfast. It was Jodi Jakosa, Gary Rinck and me. I said, "Hey, Gary, how are you?" He said a bunch of unprintable—[*laughter*]

- Raven: Whatever happened to Jodi? I understand that she is back, now, that she and her husband are back.
- Erspamer: Yes, I think that she is back, but I don't think that she practices anymore.
- Raven: She was an interesting person. Who all was in the first group that went over there?
- Erspamer: The first group was me, Jacobs, Tony Zaloom, remember him? Tony Zaloom?
- Raven: Wasn't Minnie there?
- Erspamer: Well, not at the beginning.
- Raven: Well, Harold was there.
- Erspamer: No, he came in about six months after I did.
- Raven: Oh, did he?
- Erspamer: Ron came in, you know . . .
- Raven: Was Ron in for a while?
- Erspamer: Ron was in for a long time. Ron Carr from D.C. You remember he did all the essential facilities doctrine and stuff.
- Raven: Oh, he did a lot of that stuff. You know, he did that wonderful thing, you know, that even IBM says one of the best things that they have ever seen. He did that in San Francisco—
- Erspamer: He wrote it.
- Raven: I would see him late at night, you know

- Erspamer: Yes.
- Hicke: What is this wonderful thing?
- Erspamer: He wrote a beautiful brief.
- Raven: It was our position for Fujitsu in this case of IBM against Fujitsu.
- Erspamer: He was brilliant. He's dead now. He unfortunately died a few years ago.
- Raven: Wonderful guy.
- Erspamer: Brilliant. I mean, everyone in the firm sort of recognized that there are a lot of smart people in the firm, but very few people would ever admit that anyone is smarter than they were. If you can get Harold to admit that someone is smarter, then you've really got something.
- Raven: Oh, God, no, I wouldn't even try that. My secretary just found the other day that speech that Ron Carr wrote for my retirement.
- L. Raven: Ron Carr wrote a beautiful thing when you retired; that was very touching.
- Erspamer: Beautiful writer. Beautiful writer.
- L. Raven: I just want to say something about Naruto. When I was in Japan, I met Naruto for the first and only time. And he had to tell me about how he felt: he felt about you like you were his father. And he did not feel well unless he heard your voice every day. Every day he had to hear your voice.
- Erspamer: This is a very jarring thing for that company, because they are not used to U.S. procedures, or even U.S. customs about intellectual property. And only recently had even the U.S. given copyright protection for software. So they were baffled by it all, and I remember one of the first things I did is I had to go over there and explain how the U.S. legal system worked and about discovery. You know, that you actually had to turn over your documents. And I explained about discovery and how you turn your documents over, and then immediately they would have these really weird looks.
- Raven: I can just see it.

- Erspamer: I bet they were confounded, and they would go *ssssssssss*. They would sort of hiss you. *ssssssssss*. Of course, some of them spoke some English, but kind of broken English. "You mean we show them our papers?" It's like dumbfounded, like how could this possibly be? *[laughter]* "Yes, yes." They'd say, "Translation poor, this must be the problem."
- Raven: The guy who was finally kind of the chair of all that operation was a great guy.
- Erspamer: Who are you talking about? There were two guys that were—There was one guy Inagaki, Inagaki-san.
- Raven: Inagaki, yes.
- Erspamer: He ran the day-to-day thing. He is over here now in San Jose. The other one I grew to know very well and I liked. He was actually—he had kids the same age as mine, born the same year I was, Tokio Marahoshi, Marahoshi-san.
- Raven: Marahoshi.
- Erspamer: He was a very nice man. I got to be very friendly with him. They had some good people.
- Raven: That was a great adventure, wasn't it?
- Erspamer: It was a great adventure, they put their best people on this in the company. It was viewed as a plush assignment even though they worked them about 90 hours a week.
- Raven: Did you ever see what Naruto gave me?
- Erspamer: No, no, I didn't
- Raven: He came over here one time, and I'd just become president of the ABA, president-elect, I mean.
- Erspamer: That is where you have to do all the work, right? Of course, he is a very wealthy man, too. Very prominent there.
- Raven: *[showing the inscription on his watch]* It's ABA, there it is a little, that's king, ABA king. And then the date August 11, 1987. And Naruto/Raven.

- Erspamer: They really loved you because you really held their hand in a very firm way and you got them through a difficult situation.
- Hicke: Can you explain a little bit about the difficulties of dealing with the Japanese?
- Erspamer: The culture is much different, you know. And I think one of the things, and this is one of the things, and Bob and I talked about this at the time. There are some of these stereotypes that you hear, have some semblance, some root in fact. But culturally it is so different. One of the things—lawyers are not very well respected there. It is very hierarchical. If you are in a room with 20 people, only one person speaks, the top dog, and nobody else speaks. They are very rigid in a lot of ways. The language was a big barrier, a real big barrier for us. They had some translators, we had Tony Zaloom in the beginning. It was always hard to communicate. And sometimes the words would be a little off, a little wrong, and if you were testifying, for example, and it gets translated to English, and there was a big difference between some English words that mean approximately the same thing.”
- Raven: They were wonderful people.
- Erspamer: They were wonderful people. They were the best clients. I remember there was a snow storm approaching and I was trying to get out of there. I had a little child and a brand-new baby, and I'd been gone—it was one of the longer trips, I'd been there about three weeks, I think. They thought the airport was going to get snowed in. They hired a driver to come get me and drive me up there, and they made special arrangements and everything for me.
- Raven: Did they ever take you over to that—I guess you'd call it a park, for want of a better word, in Tokyo. It is way out there, and it's got hills, got a nice restaurant—
- Erspamer: I don't think so. Early on, I was at the high-level dinners and so on, with you and David, and later as the case got more and more people, Ron Carr and Harold tended to go on those things, not me.
- Raven: And Preston.
- Erspamer: And I got off around 1987. I stopped working.

- Raven: You got off about the same time that I did, technically, although I was still—because that was about the time—
- Erspamer: I had these compilers, and we came up with a way to make the compiler a designated programmer on the earlier settlement agreement. We slipped that in and made a very small payment.
- Raven: I remember something like that.
- Erspamer: It was my idea.
- Raven: That was great.
- Erspamer: The client loved it, and then I had nothing left to do. That was my last—
- Raven: You should have been there to work with Preston then on that when they had the big argument.
- Erspamer: I was there—I didn't overlap with Preston very long, only a few months. Then I would be called back in from time to time to go over hearings where I knew something about it, but I went out the door. We had a lot of people working on that case. And I like being in the courtroom.
- Raven: There were a lot of people.
- Erspamer: And I didn't like being layered down with—it just wasn't my cup of tea. I spent two and a half years on it, but I enjoyed just being—
- [tape interruption]*
- Raven: Yes. It was a great adventure, wasn't it?
- Erspamer: It was a great adventure, it was a great cultural experience.
- Raven: That was a beautiful scene up there at their big plant where you look out over to that ocean there—
- Erspamer: Water—
- Raven: Isn't that beautiful?

- Erspamer: It was kind of a peninsula, juts way out, sort of like the state of Florida but much smaller, in southern Japan.
- Raven: That is where my tree is now.
- Erspamer: Yes, I remember seeing pictures of it, I don't remember if I was there or not. I was there an awful lot in 1985 and 1986.
- Raven: I've got these photographs of it.
- Erspamer: That was later, I think they actually did that later, didn't they? It was several years into the case.
- Raven: I think so, yes.
- Erspamer: They were such nice people. The other thing that they would do there, was they would ask the same questions of a lot of different people.
- Hicke: Checking?
- Erspamer: Yes, Naruto would take me out to dinner every once in a while and say, "Well, what do you think about this? What do you think about that?" I always tried to be careful because you don't want—
- Raven: They had a very broad approach to—
- Erspamer: Yes. They wanted all the information from everyone, everyone's view on things.
- Raven: You see that is how they kind of wrote things.
- Erspamer: Very organized, very detailed way. They had guys at every meeting taking detailed notes. They would write them up.
- L. Raven: They gave me a wonderful trip in Tokyo. They found that I didn't have too good a sense of direction, so they gave me a secretary, and she—
- Erspamer: Oh, really?
- L. Raven: Yuka, in fact, she's been in San Francisco.
- Raven: She used to be in this office.

Erspamer: *[Interrupted by a telephone call]* This is a guy who's a client, I didn't realize that we went so long. I guess we should wrap it up.

Hicke: Thank you.

Erspamer: I enjoyed it. It was fun.

[End Tape 23, Side A]

**XIII. RECOLLECTIONS OF THE ABA WITH CAROL S. LARSON, KERRY A. EFIGENIO, AND HELEN T. KING**

Interview 11: March 24, 1999

[Begin Tape 24, Side A]

**Larson Joins MoFo**

Raven: When Carol [Larson] came, I was president-elect of the ABA?

Larson: Yes. You had already been elected president, and I started working with you in August of 1988, which was the month that you were sworn in, in Toronto. And I actually didn't go with you to Toronto. So I only worked with you during the actual year of your presidency.

Raven: You wrote all those articles.

Larson: Right. Whereas Kerry and Helen, of course, had been with you a long time by that point and were part of the campaign and everything. I got to reap the benefits of your actually being in office at the time. It was great.

Raven: You learn all the various—

Hicke: Yes, we have a whole set of binders here that is evidence of your work.

Larson: Right.

Hicke: Can you tell me how you got into this?

Larson: Sure. It was one of those things in life that was full of serendipity. I was a lawyer practicing law in Los Angeles and was a partner in a relatively small firm there and had decided that my real love in going to law school had been children's issues and policy about children. I thought I wanted to get back into public interest work. So I told the partners in my firm I was going to start looking around, and I got a one-day-a-week consulting job with the [The David and Lucile] Packard Foundation up here in the Bay Area. It just happened that Peter Pfister, one of the main partners here at Morrison & Foerster, was helping Bob find someone to be a speech writer for him. And Peter's mother had been my high school German teacher.

Hicke: That is serendipity!

Larson: And I stayed in touch with her and also with our summer law clerks, now associates at Morrison & Foerster, who had worked for our firm during the summer. So through a variety of people, Peter heard that I was looking to make a move and get out of practicing law and get into something more public interest oriented.

Hicke: And what was your firm down there?

Larson: It was called O'Donnell & Gordon.

Raven: Oh, O'Donnell.

Larson: Pierce O'Donnell.

Raven: Oh, Pierce O'Donnell. My old friend Pierce O'Donnell, sure.

Larson: Right. So anyway, it was through Peter and through my high school German teacher that I got this job, and they made me write a speech to try out for it.

Raven: Oh, did they? *[laughter]*

Hicke: Do you remember what you wrote about?

Larson: Oh, I think it was one of the early speeches. Bob did so many on access to justice and people's professional obligation to get involved with pro bono work given the great inequity in access to justice. It was a terrific experience. I really look back on it, Bob, as one of the very best years of my life.

Raven: That was a lot of fun.

Larson: It was so much fun.

Raven: Lots of hard work.

**ABA: Larson Writes Speeches for Raven**

Hicke: When did you meet Bob?

Larson: It would have been in July, that summer, July 1988, and then I was working full-time with him from September 1988 through August 1989.

- Raven: You were actually with me when I was president, you weren't with me when I was president-elect.
- Larson: Right. And as you can tell, I'm sure, if you've talked to other people about that year when he was president, you were tremendously busy.
- Raven: Oh yes, traveling all the time.
- Larson: In preparation for today I went and looked through the binders of speeches, and I looked at the month of March of 1989. So you were mid-year then in your presidency, and in a 12-day period, you were in Louisiana, London, Pasadena, Washington, D.C., Pittsburgh and back to San Francisco, giving speeches in between all those.
- Hicke: Good heavens! You must still be living off your United Airlines frequent flyer mileage.
- Raven: We were so far ahead, you wouldn't believe it sometimes. We burned most of them up.
- Hicke: Did you go with him on these trips?
- Larson: No. I only went to the regular bar events—the mid-year meeting and then the annual meeting. The annual meeting at the end of Bob's term was in Hawaii, and the theme for that meeting—it actually had been a theme throughout the year, around alternative dispute resolution—and so the meeting's theme, do you remember what it was?
- Raven: "Resolving Disputes in Pacific Ways."
- Larson: I think Bob came up with that.
- Raven: Well, no, I have to give credit to a lawyer, part of the state apparatus in Hawaii. He came up with "In Pacific Ways."
- Larson: Right, right.
- Hicke: Who did?
- Raven: This attorney who worked for the—I guess maybe for the university out there or something. He was on our committee. We had big, broad committees picking people out from the bar, people from Hawaii. In fact,

that was the last ABA annual meeting in Hawaii, because they wouldn't build any bigger—we didn't have enough—facilities were very crowded. But it was a great experience.

Larson: But it was a great meeting! It was really the culmination of what had been such a fun year for me as well as productive in terms of being able to think about these issues and to actually write about them and to have really had the chance to work so closely with you. It really was a fabulous year. The theme for the year, I don't know. Hey, there's Helen. [*Helen King enters the room.*]

King: Hello. Sorry I'm late.

Hicke: [*to Larson*] I see you have notes.

Larson: I couldn't remember what the theme was off the top of my head. I remember the general theme, but not the exact words.

Hicke: Maybe you could just tell me sort of in general how you went about picking your subjects and writing speeches.

Larson: Sure. A lot of the themes, a lot of the speeches' content were around the theme that I think—Bob, you probably had the opportunity to choose when you were president-elect what was going to be the theme for the ABA during your year of presidency. It was, "To establish justice; everyone's responsibility; achieving fair, effective and affordable justice." So it was three parts. To establish justice is out of the [U.S.] Constitution. Everyone's responsibility was certainly a theme of Bob's during his life, his role, but particularly as spokesperson for the bar.

Raven: That's why the people at the—what do you call the outfit, oh, you know?

Larson: Yes, the big private judging organization.

Raven: That's when they got excited about me, I wouldn't tell them. I knew them all. Once they called me, and they wanted me to talk to them. This was when the judges started going out and having their own little groups. What is the name of that?

Larson: Oh, I'm not remembering either, but it was ten years ago. I was curious as to how you saw some of the developments of the last decade around some of

these themes. In 1988, it had been around for a few years, this thing of judges retiring and going into for-profit companies, who could then be retained by people and usually businesses to litigate their cases in a binding litigation, but outside of the court system, in a private court system essentially. While there are a lot of good things to that, Bob was really one of the outspoken people, saying that there were also some concerns about it. He talked about creating a two-tier system, where if you can afford it, you can buy the best judges and get them off the bench, and you can have speedier justice, while you let the public system falter. And so his first ABA *Journal Message From the President* was written on that. He wasn't one to shy away from controversy. You did get a lot of flak for that, I think, didn't you? Or at least concern about it.

Raven: Right. I guess you weren't here when I started that group; that group that I eventually turned into a Section [of the American Bar Association].

Larson: Oh right, yes.

Raven: That was later.

Larson: Under that broad theme of—"To establish justice and everyone's responsibility, and achieving fair, effective and affordable justice"—under those themes it seemed that there were about three or four main messages that would appear, depending on where the speaking engagement was. It would be either about professionalism, which Bob was always really careful to say not only included competence and a code of ethics, but also included public service, a commitment to public service. We would always tie that back to access to justice, in the sense of pro bono work. Hey, there she is. How are you? [*Kerry Efigenio enters the room.*]

Efigenio: Fine. How are you?

Raven: Well, they were fast-moving days, weren't they?

Hicke: These themes were established by Bob for his year in the presidency?

Larson: Yes, I think so, and they were what he wanted to emphasize; so it was professionalism, access to justice, pro bono work and alternative dispute resolution, because that was hot in the sense of firms going to it, and it also related to the private judging issue. You also were really quite outspoken about access, full access; it was called Goal Nine of the ABA.

Raven: We had all those goals.

Larson: Right. Access to full participation of minorities and women. What was that a goal of, do you remember, Kerry? It was some report of the ABA. There were a lot of events where Bob was really a refreshing, outspoken spokesman for real, better, and fuller participation of women and minorities in the law and in the bar association itself.

Hicke: You said sometimes the theme depended on where he was speaking. Can you elaborate on that?

Larson: Well, a lot of the groups were state bar associations, and so there I think a lot of times you would talk about professionalism. Then a lot of the groups were women's groups—women's bar association, minority bar associations—and so you would talk about themes that related to that. Civil rights groups, human rights groups—

Raven: Could we go off the record for a minute?

Larson: Yes.

*[tape interruption]*

### Travel for the ABA

Larson: We were talking about where Bob has spoken; what groups, etc. Well, another thing that was happening then was the European Union, and I know you went to London.

Raven: Yes.

Hicke: How did that affect the ABA?

Larson: Well, there were a number of issues about access—about when American lawyers would be able to participate in the bar associations and what kind of requirements there are.

Raven: Those were big issues at that time.

Larson: Right. And that wasn't just in Europe in the legal system, but also in Japan that was a really big issue.

- Hicke: Oh, when American lawyers could practice law in other countries?
- Larson: Right. Right.
- Hicke: Okay.
- Larson: What you had to be—
- Raven: Now, was I going to Japan when you were here, or was that later? This happened later.
- Larson: I think it was both before and after. I think you made a couple of trips during that year. I was just saying, Helen, that I looked back at the speeches—I just took a two-week period in March, and he was in seven different cities—all over the world, really.
- King: Carol, there's one thing that keeps coming back to me, and your last comment brings it to my mind again. Bob traveled *soooo* much! He would be in one city, then he would fly from there to another city to make a speech or an appearance at a gathering, and fly back to the original city prior to returning to San Francisco. He did that quite often. So one day, I answered the phone, and it was Bob calling from an airport—he would always check in with me when he was away—and I said, "Where are you now?" He said, "Well, I'm at the airport, but I don't want to go back to Oklahoma!" For some reason, I had booked him on a flight back to the interim city, rather than bringing him back to San Francisco. I remember telling Carol and Kerry what I'd done and that Bob was so nice about it. Anyone else would have been livid, but he just said in a nice voice, ". . . but I don't want to go back to Oklahoma!" We all had a good laugh about it then and many times later when we recalled the incident.
- Raven: Well, I got out to the airport, and they said I had to go to Oklahoma.  
*[laughter]*
- Larson: Actually, what you said is something I have been thinking about too, because I remember that: "I don't want to go back to Oklahoma," rather than "How did you screw up? What happened?" And that was really one of the best things about the year, that we worked really well as a team, and that Bob set a very good tone. I mean, I have worked with a lot of accomplished men lawyers who don't always set a really nice tone, and you were very—I know it was just a real pleasure. It was a fun group to be a part of. You'd

wake up in the morning and come to work—I was saying to my husband this morning that I look back on that year as really one of the best, and he said, “But do you remember how hard you worked? Saturdays and evenings and—.” And I said, “Yes,” but you know, I just remember it being fun.

King: That was what I was going to say too—we put in so many hours. I started working for Bob in September 1986, and he was actively campaigning for the [ABA] presidency at that time. He was nominated the following February and began his term as president-elect in August 1987. I remember Bob asking me during my interview, “Do you mind a little overtime?” I said, “Oh, no.” Little did I realize then that I would put in three years in the next two years!

Raven: I was the first elected in the middle of 1987 or 1988 —

King: Yes. You were nominated in February 1987, and you were president-elect 1987-1988, and president, 1988-1989.

Raven: And then I stayed—they had me stay on a year, even though the new president was there. You remember? I spent that other year.

King: Yes, you were past-president. It was a three-year term, but the first two years of your ABA term were the busiest. We worked into the evening hours during the week, as well as being here on Saturdays and Sundays. It was a real commitment, but we had a good rapport among us—we could always find something to laugh about when the pressure was on. Personally, it was a great experience for me. I don’t think we could have had a better team.

### **King Joins MoFo as Raven’s Secretary, 1986**

Hicke: Let me ask how you happened to join Morrison & Foerster.

King: I moved to San Francisco from Chicago in the fall of 1963 and for the first time in my life worked for a temporary secretarial service, Kelly Girls. One of the temporary positions I filled was for the secretary to the vice president of a division of Castle & Cooke. Of all the temporary jobs I’d had, this was the only one I would have liked on a permanent basis. Luck was with me when the secretary decided not to return from her leave of absence and I was offered the position. I was employed there from 1965 to 1986, twenty-two plus years. My last position there was for the president of the corporation.

When C&C was bought out by another firm, we knew it would not be long before the president resigned. I chose to resign as well, not wishing to stay on with the new management. I began my "networking" by letting friends and acquaintances know that I was in the market for a new position. One of the people I called was a woman I'd met on the bus while commuting to work. At the time, I did not know where she worked. I left a message on her recorder, and when I returned home that day I had a message from her. She told me there was an opening at her firm and the personnel department would like me to come in for an interview.

Hicke: And she was at Morrison & Foerster?

King: Yes, that's how I started working with Bob. Only when I returned her call did I learn that she worked for Morrison & Foerster. Although I did not have any legal background, this did not present a problem. What he really needed was an administrative assistant, and that was what I had been doing at Castle & Cooke.

Hicke: So you applied for the job, this particular one?

King: Yes.

Raven: What was the year?

King: That was in 1986. After my initial interview in the Personnel Department, my second interview was with Penny Preovolos, who was assisting Bob in this regard due to his heavy travel schedule. Then I interviewed with Bob, and the rest is history.

Hicke: What was your first day at work like?

King: Well, I'm sure it was like the first day on any new job. I remember Bob was out of town when I started. Bobbie Robinson, the woman who had been assisting Bob, trained me. She did not want to remain in the position once Bob became involved with the ABA. She took a position as a word processor for a period of time prior to her retirement. She'd been with MoFo for many years and had spent quite a few years working with Bob; so she was very knowledgeable about the firm and her position. Kerry was invaluable to me in the beginning and throughout my years at the firm. She is the utmost source of information. Just ask Bob how many times we called on her. Best of all, she is a wonderful friend.

- Hicke: And you spent a lot of time making travel arrangements [for Bob].
- King: Oh, yes! It was a never-ending project. When I started, they were using a standard *Week-At-A-Glance* calendar. It was impossible because his schedule was constantly changing and the paper wasn't strong enough to deal with all the erasures! With the help of one of our word processing staff, I devised a monthly calendar on the system, and that became our Bible. (At that time, calendars were not a standard feature on word processors.) Bob could just look at his copy and know his schedule for the next twelve months—where he would be, flight schedules, etc. I recall one time when Bob was president-elect and attending an ABA meeting that was being presided over by the ABA president, Bob MacCrate. During the discussion someone asked about a forthcoming ABA meeting and when it would be held. Neither the president nor anyone else in the meeting had the answer, with the exception of Bob, who took out his calendar and gave them all the pertinent information. On Bob's return to San Francisco we received a call from Bob MacCrate's secretary inquiring about our calendar and how she could prepare one for him. Bob and I both gloated over that one—it really made our day!
- Efigenio: I can remember when Helen was hired—we were working on the campaign at the time, and Helen was so diligent. She had taken the position, but before she started, she wanted to learn about Bob; so through the personnel person she kept requesting background on Bob, you know, so she could learn about him. It was a great thing to do, but at one point we started to worry that maybe she was working for—
- Raven: The FBI!
- Efigenio: One of Bob's competitors! *[laughter]* You know, she was trying to get so much—why did she need all this information, anyway?
- King: I didn't realize that in wanting to familiarize myself with the organization as much as possible prior to starting my new job that I was creating so much havoc for Kerry. Later, I remember Kerry telling me, "I was beginning to wonder about you—you were asking for so much information!"



**Robert D. Raven & Leslie-Kay Raven (1976)**



**Robert D. Raven (January 1987)**

**Photo: Saxon Holt Photography**





**Robert D. Raven and Leslie-Kay Raven • New Mexico Bar Annual Meeting (1987)**  
Photo: Christy Marquart



**Hilary R. Clinton and Robert D. Raven**  
**ABA Annual Meeting, Honolulu, Hawaii**  
**August 3-10, 1989**





**Meeting of the International  
Academy of Trial Lawyers  
August 31, 1989**

Photo: Kenneth Martin Photography

**ABA Annual Meeting, Honolulu, Hawaii  
Raven's last official meetings as  
President of the ABA.  
August 3-10, 1989**





**Efigenio Joins MoFo as Legal Assistant; Working on Raven's Campaign for President of ABA**

- Hicke: Well, let's turn to Kerry. Tell me how you got to the firm and how you got to the job you've got.
- Efigenio: I started here in 1984 as a legal assistant, and in 1985 they asked me if I would be interested in working with Bob Raven on his campaign for the ABA presidency, and I was, very much. So I started working on the campaign with him and with Jack Londen in 1985.
- Hicke: What were you doing?
- Efigenio: On the campaign?
- Hicke: Yes.
- Efigenio: Bob really started his campaign a little bit later than normal, than was traditional. He got in the race a little bit later than a couple of the other candidates, but we just started writing letters and getting people in the ABA to write letters on Bob's behalf. There were delegates from each state that were on the nominating committee, and so Bob spent a lot of time going to the different states, meeting the state delegates, talking to them about his plans, what he wanted to do.
- Raven: Jack was a great help on that, wasn't he?
- Efigenio: Jack Londen was a great help.
- Raven: He knew a lot of people. He wrote a lot of letters.
- Larson: It really was a long process, you know, 1985—
- Hicke: Were the goals for the campaign circle on the same line as—
- Raven: What was our goal, do you remember that?
- Efigenio: I think they were pretty much along the same lines: access to justice.
- Raven: We had an actual statement out there. Short.
- Hicke: And so did you travel then, when he became president?

Efigenio: Yes. A little bit — at the mid-year and annual meetings. I would go to those meetings because we usually would have a function, a reception, and I spent a lot of time planning those receptions.

King: Kerry put so much time and effort into everything she did. I marvel at all she was able to accomplish.

Efigenio: And then there was a woman by the name of Susan Koniak. She was Bob's speechwriter before Carol.

Larson: It was really funny because Jack Londen, Susan Koniak, and I were all in law school together, the same class.

Raven: Oh. I'd forgotten that!

Larson: And it all circled back and, you know, Susan was the speechwriter, and she was back East at the time, right? And then Jack was here at the firm, and I was down in L.A. and we all sort of ended up seeing each other again.

Efigenio: But it wasn't Jack who recommended you; who was it?

Larson: Peter Pfister.

Efigenio: That's right, because your mother—

Larson: His mother was my high school German teacher.

King: Keep it in the family.

Hicke: Really, roots! Tell me more about what you did, Kerry, in detail.

Efigenio: I interfaced quite a bit with the president's office at the ABA in Chicago after Bob was nominated. I worked very closely with the staff. They had a staff for the president, and I worked real closely with Ed Yohnka and Harriet Ellis. Basically, before he got nominated, it was just real campaign work, identifying the nominating committee members who had committed to support him and ones that were uncommitted and getting in touch with them. And Bob would go meet with them. Write follow-up letters thanking them for their time. I spent a lot of time tracking the committee votes.

After he became president-elect, we spent a lot of time making committee assignments and planning his year as president, identifying issues. As

president, Bob received hundreds of letters from various groups and individuals soliciting his help on an issue or soliciting his representation on a case. I specifically remember the many letters Bob received from prison inmates. He was always diligent in responding to each letter and making every effort to help. Throughout the campaign and Bob's terms as president and president-elect, I helped coordinate receptions, meetings, and trips.

Raven: When was it? I guess it was when I was president-elect and Bob MacCrate was president. But we had that great affair out there, either an annual or a semi-annual, what was the name of it?

Efigenio: At Davies.

Raven: Davies Hall. I've had so many people tell me over the years, "Well, that was the greatest party." I think it was. It was a tremendous party.

King: It was spectacular! I'm not surprised that people still talk about it. I attend the San Francisco Symphony frequently and often think of that party when I am in Davies Hall. As I recall, there were four bands. Each band was located on a different level of the hall, and the food served in the respective areas was tied in with the type of music being played. It was first-class all the way. People just strolled from one place to another and had a grand time.

Raven: They allowed those big parties then. I remember the parties at the hotel over here.

Hicke: Carnelian Room?

Raven: Carnelian Room.

### **Impact of Raven's Leadership**

Hicke: Somebody, maybe Carol or anybody who has ideas, tell me the kinds of things Bob did as president that were somewhat different than what had been done before.

Larson: You all would be better at how different it was, but I think it really was striking that he spoke out so forcefully, you know, given the ABA and just where it was as an organization. He spoke out so consistently and

forcefully on death penalty representation. I mean, that was a whole line of work.

Hicke: Can you explain that a bit?

Larson: Well, even then, you know, people were complaining so much about the length of time it takes between someone being sentenced to death and actually being executed. Certainly the lawyers generally, but the ABA specifically, was under a lot of criticism for having a pro bono death penalty representation program in which lawyers in private firms would sign up to defend people and do appeals for people who were on death row. And people who were critical of it would see that as unnecessary appeals and really actually impeding justice rather than furthering it.

Hicke: I'm sorry. This is a little confusing to me. The ABA was being criticized for doing this pro bono work?

Raven: Oh, yes. What was the name of that committee? What was her name?

Larson: Esther Lardent. Esther Lardent was very involved in that. And what was her position? She worked for the—?

Raven: She was a staff person [of the ABA].

Larson: But she was active in it. So at least first, at least the way I remember the issue—first it was Bob taking the position that people who were on death row were entitled to really good lawyering and to appeals to make sure that justice was really being done. There were people who would be critical of that. One trial, one appeal. It's over. Then people were critical certainly about the ABA speaking out, let alone the president speaking out about it. Then the other part of it is that not only did Bob take that position, but also the ABA several staff people to organize encouragement of law firms across the country to have some of their best lawyers, helped out by the younger lawyers, actually take cases on pro bono. And then, as I understand Esther's work, the ABA would provide back-up expertise about different—create almost a network of these people to be in touch with each other about how you best represent people who are on death row. So that, I think, was a pretty gutsy stand.

**GOALS OF BOB RAVEN AS PRESIDENT OF  
THE ABA**

Goal 1	To Promote Improvements in the American System of Justice.
Goal 2	To Improve the Delivery of Legal Services.
Goal 3	<i>To Provide Leadership in the Improvement of the Law.</i>
Goal 4	To Increase the Public's Understanding of the Law and the Role of the Legal Profession.
Goal 5	To Assure the Highest Standard of Professional Competence and Ethical Conduct.
Goal 6	To Serve as the National Representative of the Legal Profession.
Goal 7	To Enhance the Professional Growth of the Members.
Goal 8	To Advance the Rule of Law in the World.
Goal 9	To Promote Full and Equal Participation in the Profession by Minorities and Women.

Raven: But then we had that organization. First we had the women coming in, with Hilary Clinton being—when Bob MacCrate was president, he made her the first chair of the women's group, and I appointed her the next year. and that was very much into the—many other things too, of course. But you're quite right. But there was another group, what was the group in the government that paid money to lawyers out in the community?

Hicke: Legal Services?

Raven: Legal Services was a big thing that we were very much involved in.

Larson: So really [Bob was] taking positions on that and sufficient public funding for Legal Services and don't tie the hands of Legal Services lawyers. And then also another issue. If you look at the [ABA Journal's] *Message From the President* there were articles on homelessness. I mean, that was not an

issue on the mind of a whole lot of lawyers. Well, that might be too much of an overstatement, but it was not a leading issue for the private bar across the country.

Raven: One time we had that march on Washington, remember that? Leonard Janowski, there were about eleven of us from LA, or California. Leonard Janowski, Joanne Garvey, myself, there was a whole group like that that went from every state but one. We met in Washington, D.C. It had to do with—

Larson: That was Legal Services.

Raven: Legal Services. Because they kept trying to knock out Legal Services.

Larson: That was in 1981.

Raven: Was it that late?

Larson: Early, yes. Did you go to another march in Washington prior to that?

Raven: That's the one I remember. Let's see, that young lady, she's out here now in the court out here. She was an Indian. She's very well known now.<sup>35</sup> She was the one who went with me. We broke up into threes, you know, and I had two of the people from California who were Indians.

Larson: I only heard about that, because that was a while before.

Hicke: Let me ask you, while you are going through these, to tell me what kind of responses you were getting; you did say you got some criticism. But did he also have some positive results? You've got this network going. Was that a result of what he was doing and saying?

Larson: Well, it would be interesting to ask you, Bob, about how you see the changes since then. I mean actually we, the profession, has lost some ground in the last decade on those issues in terms of Legal Services.

Raven: Although they tried to hold it very firm in the ABA. The ABA's been all out on that.

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<sup>35</sup> Abby Abinanti, currently a Commissioner in the San Francisco Superior Court.

- Larson: But, yes, I think if you look at the ABA, the themes that Bob spoke out about were really viable, vibrant themes in many of the successive presidencies. I also think that Bob had real impact—and it is hard to document this, and maybe it would be as much out of Bob’s practice as well as out of his leadership in the ABA—on some of those other public interest issues such as the death penalty or homelessness. But the other issue where I think Bob was very gutsy and probably had a real lasting impact was what he said about alternative dispute resolution and about private judging issues. And really sounding that warning early on that: “Let’s be careful what we’re doing here and pay attention to whether we’re creating a separate, parallel system that other people can’t afford and that takes the best and the brightest off the bench.” And I think Bob being so prominent in the practice of law as well as in the ABA in doing some private judging work and arbitration work himself, you know, here was one who was a great believer in this being willing to also say, “But let’s do this cautiously.” It is always hard to measure what would have been or what if that hadn’t been, but I suspect that having someone so well respected as an expert in that area sounding these themes influenced how some of these organizations developed and how the bar [ABA] approached the issues. What do you think, Bob?
- Raven: I don’t think there is any question that there was a lot of development at that time.
- Efigenio: I can really second that. I mean, I truly believe that Bob’s active outspokenness on ADR really set the mark, because before that you just never heard anything about it. Now, every paper, in every legal paper you pick up there are at least three or four articles on alternative dispute resolution mediation, and it was somewhat controversial during Bob’s tenure.
- Raven: You remember, after I was president, one time I got a call from [Talbot] “Sandy” D’Alemberte there, and he was the new president and Sandy and what is that lady that I know sits back there?
- Efigenio: Martha [W.] Barnett.
- Raven: Martha Barnett, but I am talking about a staffer, from Russia, who spoke Russian—

- Efigenio: Marina Jacks. The theme—every president would have a theme for their annual meeting—and the theme for Bob's annual meeting was resolving disputes, and it was in Hawaii so—
- Raven: In Pacific Ways.
- Efigenio: Yes, we came up with, Bob and Carol did, “Resolving Disputes in Pacific Ways.”
- Larson: And that was really just such a baby at that time. I mean ADR. It was like when he talked about homelessness, you didn't even hear about it out here at the time. He was always way ahead of the issue. That is just how he is, how his mind works.
- Raven: You remember when I was fairly recent and came back here, that I got that call from Sandy D'Alemberte, who now runs the University of Florida. He was the president here, and Marina Jacks called me up and asked me if I would take over the Standing Committee on Dispute Resolution.
- Efigenio: That is right. And you did.
- Raven: And, so, I said I would. Then about two years we moved it into a kind of committee, and it was the first new standing section that had been created in 17 years in the ABA.
- Hicke: That's ADR?
- Efigenio: Yes, Standing Committee on Dispute Resolution.
- Raven: Now they are having a big “to-do,” they sent me a special letter; they want me to come. I don't know if I will go.
- Efigenio: Where is this?
- Raven: Back in New York.
- Efigenio: In ABA?
- Raven: Section on Dispute Resolution. They are really going now they have got a big group.

Larson: Yes, I think about the theme that you put in place that was so good. There was one speech I remember, I think you titled it, and that was "Let ADR be ADR." It was an alternative dispute resolution. In order for it to be alternative, there has to be a system in place, you know, a regular court system that you can use so there is actually a choice; you are not forced into some alternative because the public system is so poorly funded or the regular litigation system. And then there has to really be a choice. And people are fully informed about what are the strengths and weaknesses of that. And also, that it isn't right in all instances, and that you have to, on the positive side, have a mechanism for people to have faster, swifter, less expensive resolution of their disputes, which relates to the whole affordability and access to justice. And so it was both the great opportunity but also a great responsibility in making sure it developed well.

Raven: One of those first president's editorials is on that, isn't it?

Efigenio: Yes.

Larson: And Bob personally got involved in doing dispute resolution. And mediation, because he had brought this to the forefront—as far as the presidency—and he personally got involved in doing it. And he was a mediator in the cases, and we had quite a few cases like that where they would come here and meet.

Efigenio: Bob, what was that one when you did the mediation, after the ABA when we met in the conference room down here?

Raven: Oh, that was people from the Northeast.

Efigenio: Was that General Electric?

Raven: I think General Electric was in it, I think they were the— But also the big atomic works that they put together up in Washington. Carl, remember Carl [Helverson]?

King: I do remember Carl.

Raven: That was one of the greatest experiences of my life, when we—

Efigenio: What was the great experience, Bob?

- King: Being the arbitrator in that big case.
- Raven: Well, it was a big case that turned into arbitration. It had some tremendous companies in it.
- King: Yes, I remember we had all those photographs that they gave you.
- Larson: One thing about the Japanese company,
- Hicke: Fujitsu?
- King: Yes, I believe that was the one that required us to take over an extra office on the 35th floor to accommodate the volumes and volumes of binders pertaining to that case. It was unbelievable! You would go down there, close the door, and read the material for hours on end. Then, after it was all over, we had to dismantle all the binders and have the material shredded.
- Raven: I think that is the one you are talking about.
- Efigenio: Is that the same one that was involved with Carol? Okay.
- Raven: The state of Washington. There is so much, it is hard to know how to get into it.
- Efigenio: In dispute resolution?
- Raven: No, no, on it all.
- Efigenio: Oh, about what you've done.
- Raven: At that time.
- Larson: I was going to ask you a question, because so much of what you talked about that year was about lawyers in private practice and their obligation for public service. You really identified that as a key component of professionalism. And you would talk about how one of the sections of the ABA had the standard of asking people to work 75 hours a year pro bono. I haven't been practicing law for the last ten years, but what do you think it's like now? What does it look like in 1998? Is there more or less commitment to public service in the private legal system?

Raven: No, I don't know, and we should ask one of those people about that. I think that we're still very much involved.

Hicke: This morning I heard MoFo all over two or three radio stations. Because you are representing, I don't know if you know this story, but the last of the men who were loading dynamite onto a ship and the ship blew up and these—

Raven: That was over across the bay.

Hicke: It was somewhere around here. [Port Chicago] These guys were all African American, and they refused to load any more dynamite, and so they were court-martialed. And then they were blacklisted and so on.

Larson: This goes back to years and years ago?

Hicke: Oh, to the War [WWII]. Anyway, Morrison & Foerster is helping this last guy get recognition.

Raven: Who is the young lady here who uses the wheelchair?

Efigenio: Kathi Pugh.

Raven: She is very much a leader on all of that.

Efigenio: Kathi Pugh is the pro bono coordinator. It is interesting, because I work in marketing with Carl Whitaker and I work primarily on publicity, and we have been doing a lot recently with some high-profile pro bono cases that the firm is handling, specifically, there was one in Dinuba. Arturo González was representing the family of a man who was shot.

Raven: They just came up and shot him.

Efigenio: They raided his house on a false tip, and they were wrong, but they shot him. He was in bed with his wife. They shot him 13 times. And we took that case on pro bono. Arturo González just got a jury award of over twelve million dollars against the City of Dinuba, California.

And we represented this little boy in Contra Costa County who has asthma. His parents wanted him to go to this Montessori school, and when the school found out that he had asthma and had to bring an inhaler with him to class, they said that they had a no-drug policy and that he couldn't bring the

inhaler. So we're representing him in a civil rights action against the Montessori school.

Hicke: So she is answering your question about pro bono work today.

Efigenio: I was so surprised to hear about this, because I didn't know about this Meeks case.

Larson: I am sure that it must be pro bono.

Raven: Well, Herbert Clark gets a lot of the credit for this. Even though he was the lawyer for Herbert Hoover, he was also on the right side on so many things, and he was always very strong on that type of thing. He did himself, and he had other people do. He sent someone in the library one time on some case like that and finally charged about \$10,000, because we had a million in it in time, we had people all over the library working on it. But he was that way, Herbert Clark was that way.

Hicke: I think what you are saying is that the head of the firm sort of establishes this firm culture and you got it from him maybe and you passed it on?

Raven: I've just always believed that. A number of people do that. Dick Archer was that way, when he was with us. We had people who thought that way.

Larson: And you can only hope that as the—

Raven: Of course, Austin carried it a little too far sometimes. He one time had all of us, all of us partners, working on the same level; of course, he was too. *[laughs]* Matter of here one day and for ten years—

King: Does he still come in?

Raven: He still comes in.

Larson: Well, something else that was happening that year, and there was a[n ABA] *Message From the President* about it. Who was the guy—the Watergate prosecutor? Sam Dash. There was a lot of movement in the country—I guess it never ends, right?—about getting tougher on crime. And you gave a Commonwealth Club speech, and you did a *Message From the President*, and then this commission that Sam Dash had chaired came out with some recommendations, because people were arguing for tougher laws and more

police and “Three Strikes, You’re Out” kind of thing, you know the precursors. So Bob gave a lot of speeches about that whole trend and about the results of this commission and really tried to highlight that the amount of crime was overblown in the media. People were more afraid than the statistics suggested that they should be. Or the public perception of the increase in crime wasn’t as accurate as people thought.

And also the immense dollars that were being spent in prisons and in law enforcement compared to how few dollars upfront in the system for first-time offenders, whether they be juveniles or adults, in terms of other kinds of programs. So when he gave his Commonwealth Club speech, I remember everyone was quite intense about this speech, because it does get a lot of publicity and everything. It is the only speech that has footnotes running throughout.

*[laughter]*

He didn't say those footnotes while he was giving the speech, but at least we knew where our numbers were coming from. They had a question-and-answer period at the end. Bob used the anecdote, often used, but it was very appropriate in this case, about how the guy is drowning in the river, and do you jump in and save that guy or do you go upstream and do something about who’s coming down the stream? You know, address what is flowing in, or do you just focus on the immediate problem? He gave a really balanced discussion about the need to focus on the end of the stream, whether it be prisons or the actual criminal justice system itself. But he also really put the emphasis upstream about what can you do in terms of prevention.

Raven: I had a good speechwriter.

Larson: For example, drug abuse prevention programs. So much of the crime is related to drugs. Although I am surprised looking at the speech over the last couple of days, I think what really made sense was encouraging people to get involved in the lives of young people.

Raven: You notice all the popular criticism of police nowadays, you might want to say too, when we pay police what we should, and when we pay teachers what we should, we will have a better country. And judges. I think those three ought to be the highest paid groups of people in the country.

- Hicke: I want to go back to one thing. I think that some time in the 1960s, the Legal Aid Society was going through the same sort of thing, where they would be funded to do watershed cases, but they didn't have enough funding to protect the individuals in individual cases. I don't know if that was a part of this theme.
- Raven: Our firm was very involved, not me as much, in this case, but Bill Alsup was very involved in Legal Services. Mr. Clark was, I think, the one who started Legal Services. Bill Alsup has been very involved in that and a number of other people in the firm.
- Hicke: He was the head of the board.
- Larson: I think that the attacks on Legal Services at the time, and as they continued, were both about funding, but also about to what extent Legal Services was involved with class action litigation and impact litigation rather than individual representation. But many perceived that as an attempt from people who were simply against some of the positions that the class actions were about. Trying to tie the hands of Legal Services to not have a broader impact, but to just have a case-by-case individual determination. And so I think a lot of what was being talked about at that time in the various sections and committees was resisting putting those kinds of strings on the federal funding. To keep adequate federal funding to Legal Services, and to not put these kinds of conditions and restrictions on how it would be used. So that was a position you took.
- King: Another thing is how hard you worked to get good speakers for the conventions and ABA meetings—such as, the time you got Eli Weisel to speak.
- Larson: He's the one that comes mostly to my mind right now. But we really had some good speakers.
- Raven: Warren Rudman, he spoke out here, didn't he?
- Larson: Or was it in Hawaii?
- Raven: It was in Hawaii. You're quite right, it was in Hawaii. Warren Rudman was very good.

- Larson: And then Dick Thornberg, you weren't necessarily in favor of him, but he did speak. Also Tony [Anthony] Kennedy.
- Raven: You know when I was running the ABA Judiciary Committee, of course, I had to deal with him all the time. Justice Kennedy. I met him first up at the law school up in Sacramento. He was on the board there or something one time, and then I was on it for quite a while. Do you know what I'm talking about? McGeorge. McGeorge, yes. In fact I think we might have written some articles at that time.
- Larson: I was trying to remember funny stories, and there are probably some we wouldn't tell, but there was one just when Helen was saying the one about him calling from the airport to say, "I don't want to go back to Oklahoma." You know, eventually this travel would catch up with him and, you know, the firm was in the offices on California Street, and it was a gorgeous office view that you had, and then next door was the conference room that most of the time you had access to. I mean, it was pretty much reserved for Bob for the whole year. So this really wonderful view of the Golden Gate Bridge and all that; it was just gorgeous. But we would sit around that table a lot either reviewing drafts or talking about upcoming speeches and what were the themes, and so Kerry and Helen and I and Bob would all be there. I just remember one day where it was the middle of the afternoon, and Kerry and I were sitting in there with him, and he said, "I think I'm just going to put my head down and take a little rest." And so we said, "Oh sure." So we got up to walk out of the room, and before we got to the door, we heard this thump, and he was sprawled out on the floor sound asleep. This was a Saturday or a Sunday. But it catches up—just that kind of traveling you did.
- King: I don't know how he did it, to be very honest with you. I mean just booking the travel was just mind-boggling, trying to get all of this straight, and then getting in there at the right time, and a lot of these places he went to weren't New York City and Chicago. I mean they were difficult, and they required connections, and weather would be bad back there, and I don't know how he did it. It was a tremendous undertaking, but he felt so strongly about it.
- Raven: You were here when I went to Indonesia a couple times. Of course I went to Singapore about three times. I'm trying to put those together because I don't have really too much on all those.

- Hicke: What kinds of things were happening here while he was gone? What did you have to deal with?
- Larson: Well, he wouldn't always be gone that long. A lot of these were short—I mean he would sometimes for an annual meeting or something—but other times he might be gone two days and back again.
- King: He was never farther than a phone call away. I guess you could say, Out of sight, but not out of mind! We were always working on his speeches and/or his *Message From the President*, preparing for his next trip, gathering material for his trip files, communicating with the Chicago or D.C. ABA office staff, and on and on. Every time he went on a trip, we'd have huge, expandable legal files filed for his ABA books, and articles from his issue files on pertinent subjects that he could review before the meetings and press conferences.
- Raven: We went with Jimmy one time, you remember that? We went with the President Jimmy Carter, remember that? That was my last two years as chair of the ABA Judiciary Committee.
- Efigenio: That was before he was ABA president.
- Raven: But weren't you there when—
- King: I came in September of 1986, Bob, so that was before my time.
- Hicke: Were there any cases going on at this time?
- King: Well, often he would be asked to meet with other MoFo attorneys concerning cases they were handling, but there was only one case in which he continued to be actively involved.
- Raven: Well, but the one big case I continued to work on was Fujitsu.
- King: Yes, that's the one I mean.
- Raven: Remember when I got my wrist watch from there? From Fujitsu.
- King: Oh, yes I do. They engraved an inscription on the back of the watch. *[Bob removes his watch to show her.]* Oh, you're wearing it. Let me get my glasses so I can read it.

Efigenio: I think that when he was president-elect he was working very hard on the Fujitsu case, and I think you billed—

Raven: Oh yes, I was going over there a lot.

[End Tape 24, Side B]

[Begin Tape 25, Side A]

After the ABA Presidency

Hicke: Since we've got you here, Helen, maybe we could talk a little bit about after Bob was retired from being ABA president.

Raven: Then they sent me to Los Angeles.

Hicke: Helen, did you go down there?

King: Oh, no. I had no desire to go to Los Angeles.

Raven: She took care of—

King: Although he was home-based in the Los Angeles office, he still maintained his residence and office in San Francisco. He had a secretary, Barbie, who assisted him in L.A., but my position and responsibilities did not change. We had become so accustomed to his absences from the office during his prior three years with the ABA that it was very natural for us to carry on business as usual during his extended time away.

Raven: They sent me down there the year that I was—

King: You went down shortly after the ABA meeting in Honolulu, so you missed the big earthquake in San Francisco. You flew back right after and were looking for Kerry and me because we both lived in the Marina district at the time.

Efigenio: That was 1989.

Raven: Yes, that very bad earthquake. Yes. I'd come up that morning, I think. But I was down there [in L.A.] about two years, wasn't I?

King: Yes.

- Hicke: Oh, were you still acting as his secretary?
- King: I was still his secretary, but I didn't like that period of time. I was very happy when he finally returned to San Francisco for good.
- Raven: Well, that was a pretty tough period.
- Hicke: *[to Larson]* What did you do after a year of speechwriting here?
- Larson: Well, I went to work fulltime for the Packard Foundation. I'm still there, ten years later.
- King: They're very much in the paper today, too.
- Larson: Yes, I saw that story.
- Hicke: What are they doing?
- Larson: Well, the story in the *[San Francisco] Chronicle* today is about some potentially large grants to the merged UCSF/Stanford Hospital system, but particularly for the Packard Children's Services, to make it bigger and better and the best in terms of pediatric care.
- Raven: But you run their own—
- Larson: Yes, I'm Director of Programs for the Packard Foundation. So it's been great. It's been wonderful. We're giving away \$400 million this year, which is a wonderful job. The other reason we were in the news is because yesterday we named a new head of the Foundation. They've had the same executive director for 25 years or so, and he is retiring. The new head is a guy named Dick Schlosberg.
- Raven: I saw that in the paper.
- Larson: Yes, and I was wondering if you knew him, because he was publisher of the *Los Angeles Times* when you were down there, but anyway—
- Raven: Yes, I know this guy.
- Larson: So there will be changes ahead, but the Foundation's really been growing a lot. But it worked out great; 1988, 1989 was a real transition year for me, both in terms of moving from L.A. to the Bay Area, in terms of moving

from practicing law to going fulltime into foundation work. And also I had just met Jay, my husband, a few months before starting to work with Bob, and so the rest is history. We live up here, we have two kids, and so it was a big year in a lot of ways.

Raven: How many do you have in the Foundation?

Larson: We have about 120 staff.

Raven: That many people? Are you in charge of most of the staff?

Larson: I have ten people reporting to me, and probably about 70 people report to them. So it's a lot of responsibility, but it's great work, it's great work.

King: And you've been director now for a couple of years.

Larson: Yes, three years. Right before Dave Packard died—I started out as a program officer with them, you know, making grants on children's issues. And then three or four years ago, late in 1995, they promoted me to this management position. Then Dave died six months later and left his estate to the Foundation. So we went from a billion and a half in assets to close to \$10 billion in assets. So it's been a big growth period.

Raven: Those two guys did a miracle, didn't they, starting up that company?

Hicke: Kerry, did you have any follow-up work after that year working with Bob Raven?

Efigenio: After that year? After the year, I took about a six-month leave of absence.

Larson: Well deserved.

Efigenio: I guess my first day of my leave was October 1st. I was living in the Marina, and then the earthquake was on the 17th, the building was condemned, so I spent my leave of absence living with my parents, over in the East Bay.

Hicke: Where were you during the earthquake? Were you at home?

Efigenio: I was at home. I was getting ready—the World Series was going to be on and I was getting ready to watch that, and I remember it was terrifying.

- Raven: I came back that morning, and I remember coming looking for you people.
- King: I was sitting at my desk on the 35th floor. The building really moved—it was quite frightening. Then, to make matters worse, it was an hour before we were allowed to evacuate. I was so grateful when we finally got the okay to leave—even when it meant walking down 35 flights of stairs in my high heels!
- Raven: That was in our other building—that was the building over there.
- Efigenio: Yes, on California Street.
- King: Bob was still working in the L.A. office. But the weekend they had the big earthquake there, he was up in San Francisco. I asked him, “Would you let us know what is this charm you have that you always manage to avoid them?”
- Raven: I was there one day, or one weekend, when they—
- King: Yes, you were in L.A. when they had the big one in San Francisco. We heard later that you came down to the Marina looking for Kerry and me. I couldn’t get to my apartment that night and . . .
- Hicke: So, you lived in the Marina [district] too?
- King: I did. My apartment was a block from the fire so the surrounding area was cordoned off. We could see the Palace of Fine Arts from the conference room, and the fire appeared to be quite a distance from there. It’s hard to put things in perspective when you’re up here in the office, but my apartment was two blocks from the Palace, so that was my landmark. It was only when I got on the bus to go home that someone told me the fire was on Divisadero and Bay—a block from my apartment. I couldn’t believe it until I saw for myself. Then I went looking for Kerry. When I found her, I said, “Could I have a glass of wine?”
- Efigenio: We started drinking at 5:30.
- Raven: I still had my apartment at the Embarcadero at that time.
- King: Yes, that’s right. Kerry and I went down to a nearby school that was being used as an evacuation center and volunteered our services. Later that

evening there were so many volunteers—army personnel from the Presidio who were in command and young high school kids who'd come by to help—that they didn't need us anymore. I remember in particular how impressed I was with the young servicewoman from the Presidio who was in charge. Once she arrived, it was incredible how quickly she organized things in a very orderly, calm manner, while maintaining an extremely pleasant disposition. It was quite obvious her military training had prepared her well for any type of emergency. Another thing I remember is the truckloads of food that began arriving. She had us form a human chain and pass the boxes of bread and other food from the trucks parked down the street to the designated area in the school.

Efigenio: You spent the night at my house.

King: Yes, and the next day we found out your building was condemned and that it was very dangerous for us to have stayed there. It was a warm night, so we had opened all the windows, and we could hear the helicopters flying overhead. They were looking for people snooping around, robbing.

Hicke: Yes, looting.

King: Looting, yes. I remember saying to Kerry it made me think of how people must feel when there's a war going on—during the air raids.

Hicke: The London Blitz or something.

King: Yes. It really did. It was very, very eerie.

Raven: It is a war, just a different person running it up there.

King: Yes. A different person is right.

Hicke: So after your leave of absence, Kerry—

Efigenio: So after my leave of absence I came back here, in six months, and started doing work as a legal assistant. I worked on some big cases, and then I worked on the big case that went to trial, went to trial for three months.

Raven: That was with Jim Bennett.

Efigenio: That was with Jim Bennett, Paine-Webber. And I basically worked non-stop for six months, non-stop, every day, every weekend.

- Larson: It was like going from the ABA right back into the fire.
- Efigenio: So after that trial I said I could not do legal assistant work anymore, because I wanted a life and it was just too much, so I joined the marketing department and started working with Carl Whitaker. It's been great, I don't work weekends. I have a family.
- Raven: We have a good gang up there, you and Jane and Carl.
- Hicke: But there was no more ABA work that you had to do?
- Efigenio: No more.
- King: But Kerry was always called upon when things would come up. Bob and I would be talking, and he'd ask me about something, and I'd say, "Well, I wasn't here at that time." And he'd say, "Oh, I'll get Kerry." I mean, I'm sure there were days when Kerry wished she worked in another building—or city!
- Efigenio: I still get calls once in a while asking if so-and-so is a member of the ABA.
- Raven: And she just says, "It beats the hell out of me."
- King: So Kerry was still called upon all the time.
- Hicke: Well, I called upon her myself.
- Raven: You really got to know a lot of people, especially on the staff of the ABA. Whatever happened to our old buddy?
- Efigenio: Ed?
- Raven: Ed[win C. Yohnka] .
- Efigenio: Well, he's not working now.
- King: He got married? He's not working?
- Efigenio: No, he quit the ABA.
- Raven: He had one child.

King: He married a beautiful woman.

Raven: She was a good-looking woman, as I remember.

Larson: There is one thing I wanted to say, when I think back on it—not only was that year a lot of fun, with team spirit and everything, but I was thinking about the content of what Bob was saying and the key messages of his presidency. In the intervening decade, we've seen lots of instances where people have the right words, but the people delivering them don't have the credibility. You know, words are just words. But with Bob, it was so authentic because if he was going to talk about ADR, he knew about it. If he was talking about professionalism, he stood for that in his own life—competency, and the code of ethics and public service. If he was talking about pro bono work, he worked in a firm and was a leader in a firm that was a leader in that area.

Hicke: That's a good point, Carol.

Larson: That's what delivered the message.

King: When he spoke, you listened.

Efigenio: Bob still is—he reads an awful lot, and one of the main things that I did was keep “issue” files. We just kept clipping particular issues and filing them, and if he was going to go speak on a particular subject, he could bring that issue file in and read the background. He still does that to this day. He still brings in a pile of clippings every other day to me. He has a friend who has a clipping service, so he gets clippings for free.

King: The bane of our existence, Kerry.

Efigenio: But I can remember trying to maintain all of those issue files for him.

Raven: You know, Kay got a Quonset hut for me up on the farm. This long Quonset hut we just got, I couldn't believe it the other day when I walked in; I haven't been in there for a while. Got these boxes, boxes after boxes.

Hicke: Were you here when he was head of the firm?

King: No, Carl Leonard was chairman when I came on board. When I left the firm, Peter Pfister was chairman.

Raven: I'm just trying to think.

Hicke: The early 1980s, 1980.

Raven: 1982. What was it, six or eight years?

Efigenio: I think until 1980, then Marshall Small was chairman for maybe two or three years.

Raven: Yes, then Carl [Leonard] came in.

Efigenio: Carl—ten years.

King: And then Peter Pfister. Who took over after Peter?

Efigenio: Steve Dunham.

Raven: Steve Dunham.

King: Steve Dunham, that's right. Is he still chairman?

Raven: Yes.<sup>36</sup>

Efigenio: Yes.

King: No, I wasn't here when Bob was chairman of the firm. He was senior partner and running for president of the ABA.

Hicke: And after, were you here after he came back from Los Angeles?

King: Oh yes, I was here then.

Raven: You were here until 1993?

King: I was here from September, 1986, until February, 1996. Approximately 9½ years.

Raven: Were you here until 1996?

King: Yes, February 1st.

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<sup>36</sup> Steve Dunham was succeeded by Keith Wetmore in the Fall of 2000.

- Hicke: What was he doing when he got back from Los Angeles?
- King: He was still active in the Fujitsu case, as well as the ABA Section of Dispute Resolution, ABA Commission on Access to Justice 2000, the Consortium for National Equal Justice Library, ABA Senior Lawyers, Dispute Resolution Committee, to name a few. He was on many boards, such as the McGeorge School of Law and the Board of Trustees of Boalt Hall Trust. He attended meetings of the NLADA [National Legal Aid and Defenders Association] Foundation, the California Supreme Court Historical Society and the Ninth Judicial Circuit Historical Society. He was also involved in the Fifth Circuit Judicial Conferences and the NASD Securities Conferences. He was quite involved in the Western Justice Center Foundation, I remember. He was called upon to act as a mediator or an arbitrator in various matters. He always gave his time willingly—whether it was to mentor the young attorneys, or to meet with the more experienced attorneys and the partners who called upon him for his expertise in matters they were handling.
- Raven: I think I was a partner until I was 70 years old.
- Efigenio: I think you retired in 1994.
- Raven: 1993 or 1994.
- King: When Bob retired in 1994, I cut back to four days a week. During that time he often talked about really retiring—keeping an office, but only coming in occasionally, like John Austin. That went on for two years until finally he convinced me he was serious. As I was of retirement age by then, the time was right for me, so I made my plans accordingly. As history shows, I've been gone for three years, and Bob is still talking about retiring!
- Raven: We really only touched the tip of the iceberg.
- Hicke: What else can we say about that?
- King: I really don't have that much more to add. When he finished his three-year presidency term with the ABA and the two-year stint in the L.A. office, I was glad to have him back in San Francisco.
- And there was a lot of correspondence, and I used to just write the letters and prepare them and give them to Bob for a signature, and he could make

changes if he wanted to. He'd start to dictate something, and I'd say "Bob, why don't I just draft something up?" and I mean I got to the point where I would just put it on the final paper, a lot of them. And if he made a change, I would just run it off again.

Raven: I was looking this morning, and I know they're around here someplace, but we have a bunch of notebooks, where you've got all of my time and stuff in them.

Hicke: Your calendars?

King: Your calendars.

Raven: Yes.

King: They should be in your library at the ranch.

Raven: Well, I'm afraid they may be up in our Quonset hut.

King: That's what I meant.

Raven: I'm going to spend a week up there helping Kay feed the horses and stuff. Our daughter, Marta, is in Mississippi visiting my son, Matt.

King: Your calendars will tell you everything you want to know about where you were, when and why.

Raven: Well, all three of you did just a tremendous job. I don't know what I would have done for speeches.

King: Oh, Carol [Larson was great on your speeches—and Kerry too. Both were invaluable in every respect.

Raven: And Kerry, and all the work that she did.

King: The work beforehand on those issue files—I don't know how she ever kept up with them.

Raven: Kerry and Jack [Londen] were great help. Jack was very good, wasn't he?

Hicke: *[to Larson]* Did you have something else you wanted to ask?

Larson: I remember you did write some articles about the ABA itself. Your last *Message From the President* was something about looking at restructuring it. You had one called “Winds of Change” about how there should be better communication.

But what I am curious about is, I think a lot of your legacy in the ABA was not only the years as president-elect and president, but all the years before and, I assume, some afterwards, really helping that organization on structure and other issues. You mentioned making the ADR committee into a standing committee. I don’t know if you wanted to say anything about that, about the ABA as an organization, or what you saw it go through during those years that you were so involved with it.

King: They also asked him to be honorary chairman one year—the year the ABA returned to San Francisco for its annual meeting.

Raven: Well, that was only on the committee.

King: The organizing committee.

Raven: That was the committee in this area that put on the—

King: It was in name only—you did not have to do anything.

Raven: Well, San Francisco of course was a very favorable place for an ABA meeting. God, they were here a lot, weren’t they?

Efigenio: They were here every five years.

King: Yes.

Raven: In fact, when I became president-elect, they were here, weren’t they? Gene Thomas was the president, MacCrate was coming next, and then I was coming next.

King: We all attended the annual meeting in Honolulu when Bob gave up the presidency.

Raven: That was a great event, wasn’t it? That was a great event.

Efigenio: Well, Hillary Clinton was there. It was a great year. Hillary Clinton was there, she spoke at one of the luncheons, didn’t she—Hillary?

Raven: I think maybe she did.

Hicke: What kind of research did you have to do for the speeches? He talked about *Cliff Notes* for cases.

Larson: Oh, no, just issue files, like Kerry worked on, and this would be both news clippings, a lot of public interest kind of reports, either out of the ABA or other, or state bar associations around Legal Services. I know you were a big fan of John Gardner's, and so we often quoted John Gardner. Also we had some with Peter Drucker in there because you were into organizational issues.

Raven: Drucker's still busy; I saw something in the paper just recently.

Larson: Right. And then since he did so much speaking in locales, obviously—But anyway, about going to the bar in the State of Washington, or to Oklahoma, or whatever, and so we would always start out with: What are the key issues in that bar association, and what's in the news in that state? And then we'd often look it up in a book. Like I was looking back for something about that state's history, or something else we could tie into it. So, like when he was in Missouri—"Show me" kind of spirit. In Oklahoma, the "Sooners," and he was urging them to be in that tradition of going out and putting their stake in the ground, of how the bar was really going to move forward on public issues—be there first. So anyway, it was always kind of fun to try to put in a little bit of history.

Hicke: Did you try to go into what the ABA had said about these things before?

Larson: Oh, yes. Well, and Bob, and Kerry in particular, knew those things, really since he'd had four or five years' worth of real active involvement, tracking positions and all that.

Raven: Did you get a copy of this, the title of all of these? [*referring to index of speeches*]

Larson: I have an index to that.

Efigenio: I was just going to say one thing: that there was an incident that happened in Denver. The president always had a driver because the president had to go so many different places. But one thing that I think captures how Bob approached this position, and I think a lot of presidents in the past and

probably certainly now, everyone takes it very seriously, but they tend to get a little arrogant. Bob is not like that at all. At one point in Denver, the driver of the car asked Bob, he was very nervous, and he just didn't know what to call Bob, so he was saying, "Now, Mr. Raven, would you like me to call you Mr. Raven, Mr. President, Mr. ABA President?" and I remember Bob looked at him and said, "How about Bob?" *[laughter]*

Raven: You have a good memory.

Hicke: That's a great story to illustrate something about Bob.

Raven: Was that the year we went up there and it was beautiful the day we got there, and then it snowed like hell?

Efigenio: It was bad! Bad weather. It was so cold.

Raven: Oh, God, it snowed, yes. And there was the great Irwin Griswold<sup>37</sup> that they had to take around in a wheelchair and push him through the snow. That was a great meeting in Denver, though.

Efigenio: It was the mid-year meeting for your president's year.

King: And every time I see Michael Yaki on television, I think about him writing the poem, *The Raven*. Remember that?

Raven: Yes. In fact, I just saw something about him recently in the paper.

King: Yes, he's on the [San Francisco] Board of Supervisors. I wasn't a bit surprised when he left the firm and went to work for Louise Renne, I believe.

Efigenio: Nancy Pelosi.

King: Nancy Pelosi.

Raven: I think he wrote this<sup>38</sup> for me.

King: Yes, he wrote the poem. Yes. You got the—

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<sup>37</sup> Former Solicitor General of the U.S. and former Dean of Harvard Law School.

<sup>38</sup> "Raven's Response" to "The Raven" by Bob MacCrate. August 9, 1988.

- Raven: Credit.
- King: The framed copy of the cartoon with the raven was sent to you, and then Michael wrote the poem.
- Raven: Bob MacCrate sent me the picture, yes. “Nevermore, and you can quote me!” [*Reading from the cartoon caption.*] That’s right.
- King: Michael wrote the response, too.
- Raven: Oh, yes. *The Raven*, by Bob MacCrate, and *Raven’s Response* by Michael Yaki. And that’s what [*talking over each other*]. That was a great response. I guess I’ve got it in here.
- King: It’s in an envelope attached to the back of the frame. Michael’s response was quite good.
- Raven: MacCrate was great too. He was president, the first thing I did, he took over I guess in Toronto, if I recall. And they were going to Moscow? And of course Kay is a very good friend of his wife, and they got along very well. So he said, “Bob, you and Kay come along too.” So we went to Moscow, and that was a hell of a good trip. They had the greatest time there.

[End Tape 25, Side A]

[Begin Tape 25, Side B]

- Larson: During your presidency at the ABA, you had to deal with some delicate issues with the executive director, right? Didn’t we go through a transition there with the woman who resigned?
- Hicke: Who was it? What was her name?
- Larson: It was Jill [Wine-Banks], remember the woman that, she’d been a—
- Raven: Oh, yes, yes.
- Larson: She had been involved in the Watergate case, too.
- Raven: She came in when the guy from Idaho was president.
- Larson: Gene Thomas.

- Raven: Gene Thomas. She was here. That's when she came aboard. And in fact, MacCrate was one of her great supporters.
- Larson: Her first name was Jill. And what was the problem?
- Raven: I thought, well, there were a lot of problems. Finally, I said to, she had a chauffeur, she insisted on a chauffeur, and God, everyone was talking about it, and I went to MacCrate.
- Hicke: She was on the Board?
- Larson: She was an executive. She was the lead staff person at the ABA.
- Raven: I said to MacCrate, "You should really talk to her about this. You should really talk to her about it and tell her she ought to knock that off." But he didn't want to do it. Bob [MacCrate] was very nice that way. So I took her to lunch, and I said, "You ought to get rid of that damned chauffeur, and you ought to come in like all the rest of us." She finally did it. She was a very brainy person. I liked her, myself. But boy, she really got crossways with so many people in the ABA. But she lasted nearly all of my term too, didn't she? Not beyond that. They finally got rid of her.
- Larson: I remember you had to handle a lot of—vague recollection—you had to handle a lot of delicate phone calls and—
- Raven: I had nothing to do with that really.
- Larson: But also it was, kind of along the lines of what Kerry was talking about earlier, I think. It took Bob's presidency to sort of say, "Hey, this isn't what we want as an image for the ABA."
- Hicke: It sounds like quite a lot changed in the ABA because of his presidency.
- Raven: Well, the whole group in there was very good. Bob MacCrate was great, he had a lot to do with it and then the people that followed MacCrate and me were all tremendous people.
- Efigenio: Stan Chauvin [L. Stanley Chauvin, Jr.]?
- Raven: Well. *[laughter]* He, come on, you got my weak spot! Other than Stan. Remember when Stan made off with the money? *[laughter]* [Talbot] Sandy

D'Alemberte was ABA president later.<sup>39</sup> He still is a president of one of the big universities in Florida. Sandy's the one that got me, he and Marina [B. Jacks<sup>40</sup>] called me one day, and they said, this was of course right after I had been president, and they said, "We really need someone to take over the committee on dispute resolution." I said, "Don't you think it will be a problem that I'm a past president of the ABA?" I had been in that section too. But I took it, and within a year I was before the ABA House of Delegates petitioning for it to be made into a section. Everyone told me I would never get it because they had not made a new section for so many years, but I got it. It was the first new section in seventeen years in the ABA.

King: That was quite an accomplishment.

Raven: They've got some good people in there now. I remember coming back here, when we turned that into a section, and I spent three or four weeks in my office laying out who ought to be on the committee and all that. Do you remember?

Efigenio: I don't remember that so much, because I wasn't—

Raven: You moved out of that. *[laughter]* You had to get the hell out of here. But that became a great committee. It's done a lot of good.

Hicke: During your president-elect year and then your year as president, you were talking about a special commission on women in the law, and Hillary Clinton was involved with it.

Raven: Yes, that started when Bob MacCrate was president. That's when that came into being. And the women out of Chicago really led that off. But then all of us helped. And then Bob MacCrate appointed Hillary as the chair. And they really went off with a bang. They had some tremendous people.

Hicke: Right.

Raven: I testified before it, and all that.

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<sup>39</sup> Talbot D'Alemberte, President, ABA, 1993-1994.

<sup>40</sup> Marina B. Jacks is currently (1999) the Associate Executive Director of the ABA Policy & Governance Group.

- Hicke: Because I think, maybe one of the legacies is that eventually a woman was elected president of the ABA.<sup>41</sup>
- Raven: Yes. She did a hell of a job.
- Hicke: And that had never happened, I mean, this was several years afterwards, but that attention to the status of women surely helped.
- Raven: All the women are really going in the ABA. I mean you look in the red book [*ABA Directory*] now, you look at the difference.
- Hicke: That's real change.
- King: Is Marina Jacks still there? Didn't she get married?
- Raven: Yes, she's still there. She was, the last I knew. I don't know if she ever married again. You know she grew up in Russia. She came from Russia and her daughter, did she have a daughter? I don't think she ever remarried.
- Efigenio: I don't think so.
- Raven: Smarter than hell. She was very good. Marina Jacks.
- Hicke: I guess one more thing about this Women in the Law committee is maybe providing visibility for some women? Would that be significant?
- Larson: Right. Including within the organization of the ABA. You would have to put in a lot of years to reach the top positions, so I think the Commission gave more visibility to women's leadership within the organization and outside. I remember that they put together a lot of pretty powerful statistics about leadership positions and bar associations across the country. How overly represented men were.
- King: I can't remember the name of the first woman to be elected president of the ABA.
- Efigenio: Roberta Cooper Ramo, ABA president.
- Raven: Cooper Ramo. She was a great president.

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<sup>41</sup> Roberta Cooper Ramo (1995-1996); Martha W. Barnett (2000-2001).

King: And then the woman who was hired for a management position.

Efigenio: Are you thinking of Jill [Wine-Banks]?

King: Yes. What was her position?

Efigenio: She was executive director.

King: That's right. Well, that was quite a big thing that happened. For someone who wanted to get that position.

Efigenio: Right. Quite an accomplishment for a woman. She didn't stay too long.

King: No.

[End Tape 25, Side B]

#### XIV. RECOLLECTIONS WITH JACK LONDEN

Interview 12: July 9, 1999

[Begin Tape 26, Side A]

##### Campaign for ABA Presidency

Raven: Jack was great at getting all my friends to support me. You couldn't have had a better campaign manager.

Hicke: Well, that's what we're here for. Would you tell me how you got into this, Jack?

Londen: Well, as I recall, I was working with Bob on issues of legal services for the poor at the time. Bob told me he was thinking about running for ABA president. Now, what was very troubling was that Bob was saying, "I'm thinking about it, but I don't know if I will. I think I probably will. I have kind of announced, but I'm not real sure if I might just forget about it."

Hicke: Can you remember the time?

Raven: This was 1986? 1985?

Londen: It was 1985 or 1986.

Raven: Yes.

Londen: There's a routine in ABA campaigns. Bob could have been unopposed if he had, early enough, just made his commitment and let it be known that he was seriously running. And if he had, the election would have been his.

Raven: I didn't do it that way.

Londen: Bob, you waited until two other people had announced. *[laughter]* So, there was a contested election, because Bob hadn't made it perfectly clear and unambiguous that he intended to run. It was obvious that Bob was the best person for the job and would do tremendous good for the ABA. So, I kept hearing Bob say, "I think I might, but I can't quite decide," and that's how I got involved.

Raven: You were doing a lot at that time on that big project down there.

- Londen: Yes. There were a number of things happening in the IOLTA fund. Bob and I had a case together protecting the program for funding legal services with interest on certain lawyer trust accounts in California from a legal challenge—similar to the one that went badly in Texas recently—I guess because Bob wasn't handling it. The same challenge was brought in California, and we fought it off. So, I heard about Bob's potential candidacy. I was very interested. I had some political organizing experience because I had organized a campaign for my father for governor in Arizona.
- Hicke: Oh, you did? Did he win?
- Londen: No, he didn't win, but we had a great campaign. *[laughter]*
- Raven: Both your father and mother held party offices down there at different times, didn't they?
- Londen: My father was vice chairman of the Republican National Committee for twelve years, and my mother was chairman of the Republican Party in Arizona for six years—six or eight years.
- Raven: Oh yes.
- Londen: They're very political, and my mother has tremendous organizing skills, and she passed them on. I thought I could help. One of the things I realized was that, even though Bob was the leader and role model for the whole firm, he was shy about going to his partners and saying that he was going to do this. So, that's what I did. I went around to the people in the firm who ran the place formally and practically, and who would complain if they weren't consulted. I told them, "Bob's going to run, but he needs to have the firm behind him." And some said, "Why doesn't he want to ask? He doesn't have to ask!" I put together a budget. I told people what it would cost. One of our partners, who has since gone on to other places, said, "Is it really that much?" I said, "It is really that much." He said, "Fine." Nobody had a problem for a moment with the cost, since it was for Bob. I did this checking so that we would have all the bases covered and Bob wouldn't have to ask. And, it was easy.
- Hicke: What was easy?

Londen: Getting the firm's complete support. Not that everybody is as generous as Bob is with his partners. But everyone wanted to do this for Bob. If, after he had really created the modern firm and leading us in all categories, if Bob couldn't get exactly everything that he wanted out of the firm, then what is in it for all the rest of us who are coming behind? So, everybody had a very self-interested reason to say yes.

Raven: The other guy running against us—but a very good guy running against us—from Portland. Was it Portland?

Londen: Yes.

Raven: The guy I liked so much.

Londen: John Schwabe from Portland. And Mark Harrison from Arizona.

Raven: Yes, yes.

Londen: Well, it was real interesting because it was a three-way race and they were both trying hard. Harrison had been working for a long time and had good—

Raven: A lot of contacts.

Londen: Good contacts and put a lot of work into it and was a good progressive person in terms of the stances he took. Schwabe was a very conservative, solid, boring person. The kind of person who is the image of any number of ABA presidents.

Hicke: So, where did you start?

Londen: Well, it's a simple election. Was then, I think it probably still is now.

Raven: We did a lot of letter writing and a lot of—and went to a lot of places, as I recall.

Londen: There are 60 votes. And, you've got to get 31. So, we just went to work on who they were. Now, these are the state delegates. It's the Nominating Committee. This is the Politburo of the ABA.

Hicke: Okay.

Londen: The nominated candidate always wins. So, if you get the nomination in the Nominating Committee, you are elected. You don't know, two years ahead, who every member of the committee is going to be when the election happens. So you work on—for a good quarter of those people, we knew that they were probably not going to be—the current occupant of the seat was not going to be the person voting. So, we went to work on the rest and identified them.

Raven: I think that's right. Joanne Garvey is still very active in it. She headed the delegation for many years. That was after I had headed it for a while.

Hicke: The Nominating Committee?

Londen: Well, Bob was at the time the state delegate to the ABA from California, and Joanne Garvey followed. In fact, you kind of designated her to succeed you.

The race was a matter of convincing this relative handful of people, but at the same time everybody else was doing exactly the same thing. So what we did was get very organized about it. We created mailing lists. Kerry [Efigenio] did a lot of the work. You've talked to her. We did notebooks and files where we looked into these people and talked to everyone we could find who knew them, and there were lots of contacts. And we made it. There were a certain number of these people who we weren't going to get. We recognized that. The people we *could* get were an overwhelming majority of the committee. But a lot of them who we should get were already committed to one of the others.

Hicke: Because of his late announcement, things had already been going on?

Londen: Yes.

Raven: Well, there was a lot of party politics involved. You know, I'm a good Democrat. This guy from Oregon that I liked so much [John Schwabe] was a very good Republican.

Hicke: OK. So it was political too.

Raven: The third candidate, from Arizona, was another Democrat.

- Londen: Well, there are all kinds of trade-offs, too. People customarily think that the fundamental way to get votes is to make commitments about supporting other candidates in other elections. We were in the position of not playing that game because Bob wouldn't do that. We did not trade any votes for any other votes. Our rules were just straight up: If I'm the best candidate, then vote for me. If you like somebody else better, vote for him.
- Hicke: I wish you would run for President of the U.S.!
- Raven: I know better than that.
- Londen: So the way we did it was to focus on who the voters were going to be. We worked out a plan for everybody, quite specifically. We'd get together on Saturday afternoons and go down the list.
- Hicke: Who was everybody? You and Kerry?
- Londen: And Susan Koniak, who was a law school classmate of mine who went from law school to work on Capitol Hill, and to be speechwriter for three ABA presidents. She knew the organization very well.
- Raven: A great mind. A brilliant mind. Very funny.
- Londen: Yes. Very funny. Very down to earth. Effective.
- Raven: What class was she? She was in your class?
- Londen: Yes. She's my friend.
- Raven: You and who?
- Londen: Carol Larson also.
- Raven: You and Carol Larson—
- Londen: —and Susan were all classmates.
- Raven: Good. All my good friends.
- Hicke: So there you were on Saturday afternoons.

- Londen: We'd work it out. Who knows this person? Who knows them? We would plan out how we were going to go about it. Visits. Letters. Colleagues who supported Bob who would make contact. The entertainment plans were just terrific. At that time the ABA's tradition was that if you're running for office, you throw receptions.
- Raven: We threw big parties. Do you remember the party we had over here?
- Londen: Yes. We had the Opera House for — this was after you'd won. This is when you accepted the nomination.
- Raven: I was president-elect at that time. It was for a meeting in San Francisco.
- Londen: At every mid-year and annual meeting, four of them, we threw a reception, and we planned that out too. We had it staged.
- Hicke: The campaign we're talking about now.
- Londen: In the campaign. The first one was in Washington, D.C., and we had sort of a big hotel room, but we had different sorts of food.
- Raven: We had some great parties then.
- Londen: There were different themes in different parts of the room. There were shellfish and oysters and so forth over here and someone cooking pasta over there. It was very nice, very well done.
- Raven: We had one in Baltimore, didn't we? We had one over—
- Londen: We planned it to culminate with the mid-year meeting in Baltimore. We had one in New York. In New York we rented the 21 Club, which was just around the corner from the hotel.
- Raven: That's right. I forgot.
- Londen: The 21 Club. That was a great reception. But the best, the one that really set the high-water mark for excellent entertainment in the ABA, we rented the Peabody Museum of Music History in Baltimore. And the Peabody Museum has a reading room. It's the main floor, and for five stories above the main room the walls are lined with stacks containing these old historic manuscripts of music.

Hicke: Was it open?

Londen: Open all the way to the top. So we hired the chamber ensemble of the Baltimore Symphony, who sat in the stacks, out of sight, playing this wonderful music that was wafting around. We removed all of the card catalogue things on the floor and had this wonderful eating space. We found a *great* caterer to come in and have dinner for sixty. One person after another—and these are people who've been in the ABA for, you know, thirty years—said, "I've never seen anything like this!"

Raven: The one out here was just about as good, the one out at the Opera House.

Hicke: The people that were invited were the Nominating Committee?

Londen: Yes, and spouses.

Hicke: And was there actual campaigning going on? Did you talk about what was going on, or was this just being social?

Londen: We didn't have to. What they needed to know was that Bob was very serious about this and get a picture of the ABA led by Bob, which is a perfect image, and see each other, and see who else was there, and see who supported Bob. It was kind of a serious occasion. It wasn't spoken, but it was, you know, the constant object of everyone's attention. Bob went out and spent a lot of energy on it once he finally decided he was in the race. Traveling to see people.

There were a couple of very remarkable things about the campaign. One is: Bob mentions the Arizona candidate. He had been the subject of a report in a book a while ago that he had a connection with some underworld figures. He had made some admissions about conduct that would be truly embarrassing in an ABA president if it came up after he was selected. And one underlying drama—often drama is the word for this—in the campaign was what to do about this, because we knew about it.

Hicke: And yet it wasn't public knowledge?

Londen: Actually, it was a problem. If it were public knowledge before the election and this other candidate got past the problem, that would be one thing. But the way it was shaping up, the problem would come out after he was nominated. In fact, that's almost what happened.

Hicke: Did you throw it in over the transom or take it to the newspaper?

Londen: Well, that was the question. What do we do about this? Because we knew, and Bob's decision was, "We're not going to do this to him." But then that was problematic because if no one learns about it until after the election, then the potential for doing harm is out there. I come from Phoenix, where my parents have known him for many years. He knows that my parents know, and I know, everything about him. There was one meeting we had in Washington, that first meeting where I went up to him. I don't know what I said, but from what I said I could see fear clearly expressed in his eyes. He knew that I knew that he knew that I knew.

We didn't use it. We didn't publicize it or throw it over anyone's transom. That seemed like the right thing to do, and that was what Bob wanted.

At the very end of the meeting in New York, just before the Nominating Committee voted on the election, the story got out among the reporters. We were not the source. There was mention that the legal press was on to it, and the *Daily Journal* chain and *American Lawyer* chain reporters came on to Bob. Bob said, "Talk to Jack." And I took them into the press room—three people; those two and somebody else—and said, "Look, you know about this. It's around, and I would concede that it's news. But they haven't taken a vote yet. And I'll tell you something. We're going to win. Not him. So, why do you want to do this to this guy?" And they didn't publish the story. We did win. If the other candidate had won, it would have been a bigger story.

Raven: Do you think that he knew that you'd—?

Londen: Yes, somebody told him, and he expressed appreciation to you and to me.

Hicke: That's quite a story. It's coming out now.

Londen: The other thing is: how many people know Bob? We were very strategic in overcoming the commitments that people on the list had made to other people, to other candidates. I remember the meeting in our old office building on the 40th floor in a corner conference room. You can see it from here [*indicating the view out the window*]. We went through the list at the time and figured out how to get the two votes that locked it. The two lawyers that put us clearly over the top were John Pickering and Alex Forger.

- Raven: Pickering was the result of our good friend.
- Londen: George Coombe.
- Raven: Was it George? That's right. But Bernie did an awful lot for me.
- Londen: Oh yes, Bernie Segal was very helpful, but George Coombe was then general counsel for Bank of America. He made a trip to Washington to visit Pickering and asked Pickering to talk to Forger, because Pickering and Forger were from firms like ours on the East Coast. And if we couldn't get those votes, we wouldn't be credible. But if we did get them, we'd be over the top.
- Raven: Forger was one of the most important.
- Londen: Forger did it. Pickering we had to get. We got Forger also, and that was it. Because Forger was a very progressive person politically, and he's somebody the Arizona candidate had to have. If he couldn't get Alex Forger, then he wasn't credible.
- Hicke: You're not talking about numbers, you're talking about issues, or something like that.
- Londen: Yes, I'm talking about a person who will go with the liberal candidate if at all possible if that person were credible, like Alex. And when Forger endorsed Bob, it was clear that the other candidate who was staking out the progressive side was not tenable.
- Hicke: Can you elaborate more on the issues?
- Londen: It's really about the selection of a person who this group of people considers the appropriate leader for the ABA. There's talk about issues, but it's on the vague side. Bob had a very definite and specific program and, in fact, all Bob wanted to talk about was issues: the profession ought to be doing more on developing alternative dispute resolution methods and helping poor people get access to legal services and introducing women and minorities.
- Raven: There was really a great group of ABA presidents in that area.
- Londen: Bob was not alone, but certainly there was a series of good ABA presidents. Jack Curtin was another who took the ABA from a dramatically different

organization to what it is now. Bob was, if not the leading edge, the solidifier.

Raven: He followed me, didn't he.

Londen: Curtin followed you, yes.

Londen: The first time I went to the house of delegates of the ABA to watch how it worked, it was just an amazing sight. There was this old gentleman who had been an ABA leader, a very courtly southern gentleman named B. Gullett. Gullett was from Tennessee, I think. Mr. Gullett sat in the back, and these younger men would run up the aisles and talk to people and run back down and talk to Mr. Gullett. He was just sitting back there, very relaxed and very courtly. He was a very polite man. And all those runners would go up and talk to people and then come back and whisper in his ear. And that's how things were done in the ABA House of Delegates.

Well, it went from people like that—returning the votes and exchanging commitments, with runners running up and talking to people in the middle of the floor—to an open, relatively representative body taking positions on—abortion rights became the big controversy, a very difficult issue for people who were participating. But the fact that abortion rights even made the floor of the House of Delegates was a dramatic change from the past.

Hicke: Let me ask you one follow-up question. How was this change brought about?

Londen: Well, for one thing, it's a demographic change like all fundamental changes. People coming into activities of the ABA who had different views, and were receptive to change, and wanted to see things change. Bob was sort of the head of that crowd because Bob had different views.

But with a voluntary organization like the ABA the big question is why would people like that care to join? The critical role that Bob played—some other people played, but I think Bob above all—was to say to the other people with different views than were being held, that there was a place for them in the ABA. It's a voluntary organization. To my mind the fundamental question wasn't whether the ABA would go in one direction or in another direction, as much as whether the ABA matters at all. It's not a foregone conclusion that anybody would join or pay any attention to it. No one should, unless the ABA is doing things that matter. No one should pay

attention to the quality of the cocktail parties alone, but what you do when you get the pulpit that the ABA gives you to speak on issues, and the kind of people you're attracting to the profession. Otherwise, it will not matter.

Bob MacCrate from Sullivan & Cromwell, and Jack Curtin and Sandy D'Alemberte were all terrific.

Raven: All three of those guys were just superb.

Londen: And I don't think the ABA would have the numbers that it has now, and certainly it wouldn't have the focus on issues of importance that it has now, if not for that lineup.

Hicke: Did you stay involved after the election?

Londen: I stayed involved some, but Bob got some great help while he was president-elect from other people. I stayed involved some. I looked at the *Message From the President* and speeches and sounded the politics. And Bob got me appointed to some ABA committees: the Standing Committee on Legal Aid and Indigent Defendants; the Consortium on Law and Public Interest; the Standing Committee on Lawyers' Public Service Responsibility, which has been renamed the Standing Committee on Pro Bono and Public Service.

Raven: Who was that young lady from Washington, D.C.? Esther Lardent. She was really a big person in that area, wasn't she?

Londen: Esther Lardent. She deserves to think of herself as the mother of pro bono. I'm working with her right now on this White House project.

Raven: She's very involved with the ABA. She's a very good person.

Londen: She's on the Board of Governors.

Raven: I know she's on the Board of Governors. I was looking at that a couple of weeks ago. That's great. She is a very able person.

Hicke: Give me some idea of what was accomplished during Bob's presidency and maybe even the year before, what he was heading for.

Londen: Well, one thing was to open up the leadership positions in the ABA considerably. I guess internally, Bob appointed a lot of women, a lot of

people from different racial and ethnic backgrounds than had been ABA leaders.

Raven: You see, Bob MacCrate had started that. MacCrate made Hillary [Clinton] Chair of the Commission on Women in the Profession. That was that huge committee that they put together all at once from Chicago and all that area.

Londen: And Bob ended the practice of reappointing people on committees, because it tended to lock in the same white males on the same committees. So the three-year term was three years and out. That upset a lot of people in terms of internal politics, but it brought a lot of other people into the ABA.

Raven: You know Jill Wine-Banks? She's now got a new job. She's with one of these big companies [Maytag] in Chicago. So I dropped a note to her.

Londen: In terms of stances on external issues, the support for legal services for the poor is one that was extremely important. And support throughout the year for getting lawyers more behind alternative dispute resolution because of Bob's recognition that litigation was great for some forms of dispute but not the one-size-fits-all solution.

### Standing Committee on Alternative Dispute Resolution

Raven: Yes, I think if I had to decide what I gave the greatest contribution to, it was when Sandy D'Alemberte called me up when Sandy was president [of the ABA] and asked me if I would chair the Standing Committee on Alternative Dispute Resolution, or whatever they called it at that time. I said, "Yes, that sounds like fun." I went back there. I think just two years later we turned it into a section which was the first new section in the ABA in 17 years. Of course now the Dispute Resolution Section is one of the largest sections in the ABA.

Londen: I know it was a big mess at the beginning. What they needed was exactly you. Somebody who was credible in the ABA, and otherwise there would have been a terrible—alternative dispute resolution as a group is an amalgam of a whole lot of different people with very different ideas—

Raven: Different axes to grind.

Londen: And different forms of self-interest. And it took somebody who was above all of that and credible, but also who cared about getting this accepted in the profession. And that was Bob.

Hicke: Were some kind of procedures established, or how did they rationalize all this? How was it done?

Londen: In ABA terms “sections” are sort of like the medieval fiefdoms. They have their own funding and staff and longevity and a certain degree of autonomy within the organization. Getting over the hump of being an established section and having members who, year after year, will pay dues to the ABA in order to support the section, is very difficult. That’s why there aren’t new sections that spring up.

Hicke: Converting this committee into a section was a major—

Londen: Establishing credibility with the ABA, so that it made sense to take the risk of starting a section. Because sections sometimes start and fail.

Hicke: It’s expensive, obviously.

Londen: Right.

Raven: I started to get involved very much in dispute resolution anyhow, which was helpful. I started doing some arbitration on my own.

Londen: And you had been the leader of one side of the largest arbitration in history. *Fujitsu v. IBM*.

Raven: Yes. Yes.

Londen: You know Tom [Barr] is retired.

Raven: Did he finally retire?

Londen: He finally retired. He’s Tom Barr from Cravath who has got a house in Phoenix and is moving there.

Raven: I’ll be darned. Last year he was very ill.

- Londen: His health is better. Two years ago he was quite ill. But he's leaving New York, and he wants to take some kind of job recruiting for the Lawyers' Committee in Phoenix and possibly in Los Angeles.
- Raven: Oh, that would be great.
- Londen: Some of those Los Angeles firms have real weak pro bono ethics. And at the same time—and maybe it's cause and effect—I think they want to make money like Cravath. So they're going to have Cravath's most famous litigator go and tell them, "If you want to make money like Cravath, you have to recruit people who want to do pro bono and you've got to let them."
- Raven: Do you remember the guy, there was a big story on him just recently. In fact, I've got it on my desk. What was his name? Remember, he's the guy that three times I kept him off the stand and Tom brought him in.
- Londen: Oh, yes, the economist.
- Raven: Yes.
- Londen: He was in the Microsoft antitrust trial.
- Raven: I'll just show you a big picture of him.
- Londen: Well, that arbitration is a great story but probably still can't be told. Stories from the IBM/Fujitsu arbitration. It was a confidential proceeding.
- Hicke: Did you finish with the effects of—
- Londen: I think so. I think that diversity in the ABA and support for legal services and pro bono work, dispute resolution; those are very lasting legacies. I had a good time. I remember, though, that Bob had announced, and we had had a reception, and Bob and Kay were in the hotel room—this was in Washington, D.C., and Susan and I came in just to see how you both felt about the reception. One of the mistakes we made was that at the first reception with all the different kinds of food in the different rooms—we had a receiving line, a formal receiving line, and everyone who came in had to go through the line and shake hands with Bob and Kay. Kay is a person who is so genuine that it's painful for her to go through the motions and chitchat. She detests that. And we learned that: No more receiving lines, because she can't go around and establish a genuine direct relationship with

375 people. She was very angry. I forget which one of you said this, but I'll never forget why you said it, "We never should have done this. We're quitting. Why did we let you guys talk us into this?" *[laughter]*

Hicke: Tell me about the reception at Davies Symphony Hall. You alluded to that.

Londen: This was the annual meeting in San Francisco where Bob was elected ABA president. The mid-year meeting in New York was where the decision was made, and so from then on it was a done deal. What happens is that the then president-elect becomes president as a matter of course, so the new president-elect is actually the person who gets the attention because that's the news. It's a two-year job, one year as president-elect and one year as president. When Bob came in as president-elect, the meeting was in San Francisco. So the firm rented Davies Symphony Hall for a party. It was a big party. I don't know what it held. I think we had 2,000 people. Davies was reasonably new at that point. We rented the whole thing. Different kinds of food in different places, so that people could wander around and see the building, because these are people from out of town, although we had a lot of people from here. There were a couple thousand people there.

Raven: Oh yes. A whole lot of them said it was the greatest party—*[laughter]* a hell of a party!

Londen: Well, the Peabody Museum was better, but a lot smaller.

Hicke: And who did all the arrangements for all of these things? Did you?

Londen: No, I was very high-level. *[laughter]*

Raven: Kerry, I suppose, had quite a lot to do with it.

Londen: Yes, more than anybody, Kerry did it. She is extremely reliable and effective at getting things done. And we've always gotten the firm's support. We ended up spending less money than I asked for in the first place.

Hicke: Really, I don't see how, from what you've said.

Londen: I made my estimate a bit high, you know.

Hicke: That's good. They were very pleased at the end.

Londen: It never was an issue. It was a matter of Bob not wanting to ask in the first place. If there's anything that one can get out of the firm, Bob deserves it out of this one. Everybody could see that. Each of us had a self-interest in wanting to establish a high precedent for success in the firm so that we can all follow.

Hicke: Did it stimulate more interest in the ABA?

Londen: Definitely, definitely so. I know a lot of people got involved, very active. A lot of firms in Florida and other southern places that have been the Gullett-types, and people on the East Coast. But I think that among firms nationally, there's nobody more involved in the ABA than we are.

### Martha Anderson Case

Hicke: Did you work with Bob after his presidency on other cases?

Londen: We worked together from time to time. Never enough, as far as I was concerned, but we had a great case. I was a summer associate 20 years ago, 20 years and 4 months ago.

Raven: What was the case?

Londen: This lady, Martha Anderson.

Raven: Oh yes, who came down here on the bus.

Londen: She owned a stand of old-growth timber in the Anderson Valley up in Mendocino County. She made an appointment to see Bob at 7:00 a.m., which was fine with Bob. And Bob asked me—I was a summer person just roaming around the halls—and Bob asked me if I could come and maybe we could see what this lady wanted. She was very refined, and very genuine person. She wore big hats. She was very smart, very cagey.

Hicke: She lived up there?

Londen: Yes. And she said she'd come down on the bus, and she asked to see Mr. Raven. She had asked around, and she had done some research. She had asked, well, who is the best lawyer in California? And of course that didn't upset Bob at all. *[laughter]*

Hicke: How could you turn down a case like that?

Londen: And she told us about the case. It was about some old-growth timber that she had made a contract to sell before the prices had changed. She had decided that she didn't want to sell at this price, it was worth a lot more. So the question was: could Philo Lumber, Harry Philo, get an order of specific performance saying that he had a right to have those trees?

Raven: Beautiful trees.

Londen: Yes, extremely valuable trees. Old-growth redwood and fir on her property, and she had made a contract to sell the timber to Harry Philo. Philo Lumber. And the prices had changed so dramatically that she could make five or ten times that. Our contention for this nice lady was that she had the right to violate the contract and pay damages, and his contention was, no, she had violated the contract all right, but she had to supply those very trees at the price specified. I got it started, and then some other people came on it. Ron Carr, who was one of the most brilliant lawyers who worked in our firm, and Harold McElhinny.

Raven: Was it in state court?

Londen: It was in state court up there. Ultimately, we prevailed. She was able to make her profits. She passed away soon after the case ended.

Raven: She was a wonderful old lady.

Londen: It was a good experience, an incomparable experience for a summer kid to come with Bob on a case. It was just the two of us in the beginning.

Raven: She came down on that damn bus.

Londen: The case had been lost. It was a matter of taking an appeal. Ultimately the appeal was written by Ron Carr, who was a Supreme Court clerk and a beautiful, brilliant writer. He could write stuff about whether we had the right to specific performance on timber—and you could give it to your spouse, who would enjoy reading it.

Raven: That's one thing I didn't like about Tom Barr. I didn't like his reaction to something Ron wrote. We all had to have a great big position paper related to that case between Fujitsu and IBM, and Ron did a masterful job on it.

You know the thing I always liked about Tom Barr. It was one of the best traits that he had—unlike a lot of big-firm lawyers—and I'd include myself in that—he never worked from paper written by someone else, and if there was a big issue, he got right into it himself. If there was an agreement to do, he said, "Well, let's sign it right now." I always admired him for that.

Londen: Yes. He got in and did his own work.

Raven: Yes, he did. Good lawyer, damn good lawyer. He tried some awful big cases over the years.

### Legal Services Corp.

Hicke: Did you have other cases that you worked on with Bob?

Londen: We worked a lot together on legal services issues. Starting in 1981, Bob was president of the State Bar of California and was one of the people who went to Washington when [Ronald] Reagan came into office and said he wanted to "zero-out" federal legal aid for the poor. The then-president of the ABA, Reece Smith, said it would be helpful if people could come and have a demonstration of support.

Raven: That's when Leonard Janofsky and I went to Washington with a lot of other people.

Londen: Yes, and Bob was on *The Today Show*, I think.

Raven: Yes. I watched that the other day. I hadn't seen it for years, and I just happened to see it. It was on. I watched it, and I was so ticked off. What's that lady, she's still on television all the time.

Londen: Who was that?

Hicke: The Legal Services Corporation. They were trying to de-fund them?

Londen: Yes, Reagan was carrying out an old vendetta from days here when California Rural Legal Aid, CRLA, sued Reagan and Reagan tried to deprive them of their funds. There was litigation to stop that. He wanted to get rid of the Legal Services Corporation. I got involved with things at Bob's insistence. He was chairman of the firm, and I think I was still an associate, but we were talking about these issues, and Bob said we ought to

get on this state bar committee. He made a call, and suddenly I was on the executive committee of the State Bar of California legal services section. I became chair of that section and have been involved ever since in legal services issues, as Bob has. I think it's fair to say that the federal support for legal services for poor people would have ended early in the Reagan term but for the ABA and Bob and people who went and showed members of Congress that when they try to zero out legal aid for poor people, that the prominent establishment lawyers are going to show up in the halls of Congress and walk around saying, look, we're paying attention to this. That's what happened. And it's all persevered even since [Newt] Gingrich became Speaker in 1994. The three worst defeats the Republicans have taken in votes on the floor of the House have been on funding the Legal Services Corporation.

Raven: Julie Clark was really good on that.

Londen: Yes.

Raven: I remember she was with me at a hearing one time before the Senate Committee or one of those committees.

Londen: The solid majority in the House—they lost big. They have lost big every time they've tried to eliminate legal services.

Raven: I hear it's working out this time, too.

Londen: Ah, it's another—

Raven: Another fight.

Londen: Another fight. They're proposing to cut funding to \$141 million again.

Raven: I assume, from what you've told me, the Senate has always been pretty good on it.

Londen: They're fine. The Senate isn't the worry. It's the House. We'll win again. In fact, I'm having a meeting this afternoon on getting our contacts back with the committee.

Hicke: You said they're asking for \$140 million, and that's less than—

Londen: Yes, \$283 million is the current budget. When the [Newt] Gingrich crew came in, the Republicans were split between a one-third reduction in funding, then level funding at that amount. Versus a one-third reduction that year, another one-third reduction the year after and then zero funding. We called this second version the slide path.

### IOLTA

Raven: Do you remember the guy who died a few years ago? He was very key in this, in the committees by the people who were interested in that, why we were getting hounded?

Londen: A member of Congress?

Raven: No, no, he ran things here in California. Helluva guy. Kind of had a big ceremony at the time of his death. But he was very keen on all of that. He came up here to see me, in the conference room over there, you know.

Londen: Oh, Ralph. Ralph Abascal.

Raven: Ralph came to see me about the idea of IOLTA [Interest on Lawyers' Trust Accounts]. He said, "Well, Bob, what do you think of all this?" I said, "Well, gee, I don't know. I don't know how significant this would be. For example, I don't know how it would work here in our office, how much money would be involved." He said, "Why don't you call up?" I did. And when they told me how much money would be generated in our firm alone, I was sold.

Londen: This was the idea about IOLTA. The idea was that there are a lot of trust accounts where the amount is too small or it's kept for too short a time to establish an individual separate trust account for client funds. And so no one client in this category receives interest on this money because their individual shares in the interest would be lower than the cost of accounting for and making the payment to them. Which means the banks keep the money. The idea of IOLTA was that by statute, you could require lawyers to put those kind of funds, too small in amount or too short in duration, into the IOLTA account. It would pool the money so that interest could be generated and the interest goes to the state bar to fund legal services. Now it's happened in California that IOLTA generated \$22 million when interest rates were high. It was enacted in the year that Bob was president of the state bar. Ralph Abascal, who was general counsel of the CRLA, came to

see Bob and asked for his support, and Bob was skeptical. He said, "Call your accountants, see how much money it is." Bob called and said, "How much money is it that's not in these separate accounts?" There was a million dollars.

Hicke: Was this a federal thing?

Londen: It's a state law matter, enacted in 49 states.

Raven: How did we get into the Florida thing? You were very much involved—

Londen: The supreme court justice from Florida called you, and you called me, and we did that brief. We did the case in the California Supreme Court on that.

Hicke: What was this?

Londen: Well, the issue when we do this is whose money is it.

Raven: This is still a battle, by the way.

Hicke: Another IOLTA fund?

Londen: No, actually it's those who are opposed to legal aid don't want to see this money going to legal aid programs, and the principle of the thing bothers some critics, as well as legal aid programs getting the money.

Hicke: The principal as well as the interest.

Londen: Yes, exactly. *[laughter]* It's a matter of principal.

Raven: You know, a lot of people think that poor people shouldn't have money.

Londen: The lawyers. So it was the Pacific Legal Foundation, the conservative public interest group.

Raven: Abascal was an interesting guy, wasn't he?

Londen: Yes, he was a great man.

Hicke: What was the Pacific Legal Foundation's part in it?

Londen: They were trying to get the courts in California to hold that the interest belonged to the clients. And the court held that under the context of IOLTA, there wasn't any property available unless you aggregated. There would be no interest and none of the expense of generating the interest if you kept them in individually segregated accounts, and therefore no one was being deprived of property. Now, we prevailed on the IOLTA case in California, but more recently exactly that argument went the other way in a case decided by a great judge in the Fifth Circuit—John Minor Wisdom.

Raven: Yes, I was surprised.

Londen: And the Supreme Court agreed.

Raven: Yes, John Minor Wisdom. I was surprised that he did that. He was one of my heroes.

Londen: So, the Supreme Court agreed, but had some reservations about other questions involved in a takings clause rationale that could allow these IOLTA programs to proceed. There's a case in Texas that threatens the future of all these programs.

Hicke: Is this the U.S. Supreme Court that you're talking about?

Londen: Yes.

Hicke: And what was the Florida case?

Londen: Florida was a hotbed of support for IOLTA, and the people in Florida were very, very strong supporters. Arthur England, Sandy D'Alemberte, Reece Smith, and Chesterfield Smith. A lot of people.

Raven: They were all strong on it.

Hicke: Let me stop for just a minute.

[End Tape 26, Side B]

[Begin Tape 27, Side A]

Hicke: We need to be sure to get whatever else we think is most important before you go.

Londen: What's most important about Bob is he has had such a positive effect on so many people just by the force of attraction. People want to be like Bob, and we admire what we all see in you. That affects so many people. It was easy to get Bob elected, notwithstanding the timing. And it was a lot of fun.

Hicke: Any work that you did with him besides that?

Londen: There were some other things: the Pacific Lumber, the first MAXXAM case.

Raven: Yes.

Londen: I was—

Raven: I guess those people are still fighting?

Londen: It was many years ago. But there was a takeover case we were working on—I was working on the dispute between MAXXAM and Pacific Lumber. And we had an antitrust complaint and a securities complaint and a great team: Mel Goldman and you and other people. But what I remember was getting a call. I don't know whether it was you—yes, I think it was you who called me—it was 3:00 in the morning—Bob says, “Well, there is a settlement, and the settlement documents have to come in over the fax machine, and it's extremely confidential. Someone has got to be there who can make sure that it all comes in, that it doesn't get out because—well, I soon found out why. I went in, and I manned the fax machine so we could control what was coming off. And as it was coming off, I read it and said to myself, “Well, this is the next lawsuit! This settles this suit, but the next thing that happens will be another suit” because all the golden parachute contracts were coming across the fax machine. And that was the subject of the next lawsuit. So I was the most expensive fax machine operator on the West Coast that night. *[laughter]*

Raven: I guess Rachel [Krevans] and others are still working for that group.

Londen: Oh yes, that series of cases has gone on forever.

Hicke: Can I ask you one more question? Who else in the firm worked with you on the legal aid and legal services?

Londen: A lot of people over time. I guess most of all Laurie Zelon in Los Angeles has done that. She came in with the [Shirley and Seth] Hufstedlers. She is

an ABA leader on this in her own right. She has been chair of the Standing Committee on Legal Aid and Indigent Defendants.

Raven: Bill Alsup's probably been involved in it.

Londen: Bill's been involved mostly in doing cases and at the San Francisco level.

Raven: Isn't that great that he's going to be a judge? He deserves that so much.

Londen: I pity the unprepared lawyer who appears in his court. *[laughter]*

Raven: He'll be a jump, a step ahead of them.

Londen: Bill Alsup is more prepared than anyone I've ever seen.

Raven: Oh, yes.

Londen: Unbelievable.

Raven: Just incredible.

Londen: I had a case with him we took on. There was a 10(b)(5) before Judge [Samuel] Conti, and it came to the firm six days before the trial day. And he and I did it, and he examined the plaintiff. He knew more about the plaintiff than the plaintiff did. He learned that much in six days.

Raven: Conti would like him.

Londen: Oh, yes, well, he did, he did.

Raven: So would your old judge, Judge Schwarzer.

Londen: Well, thanks.

Hicke: Thank you very much.

Raven: Thank you.

[End Tape 27, Side A]

## XV. RECOLLECTIONS WITH HALEY J. FROMHOLZ

Interview 13: July 26, 2000

[Begin Tape 28, Side A]

*Interview conducted over the telephone with Raven and Hicke in San Francisco, and Judge Haley J. Fromholz from his chambers at Los Angeles Superior Court.*

Raven: Hi, Haley.

Fromholz: Hi, Bob, how are you?

Raven: I'm OK, I guess. I guess I'll make it.

Fromholz: Well, that's the way I feel, too.

Hicke: Good morning, Judge Fromholz. It's nice to meet you long distance. This is Carole.

Fromholz: Yes.

Hicke: Maybe we could just start by you telling me when you were going to be concerned with the work in the Los Angeles office, and could we start with when you went to Los Angeles and what you found there?

Fromholz: Well, I suppose this is all on the record?

Hicke: Yes, we're on the record now.

Fromholz: OK, Bob, I'll be careful of what I say in response to the latter part of that question, about what I found here.

Hicke: I have a good pause button, if you want me to use it.

Fromholz: I think Bob and some others did not give me chapter and verse when they told me what to expect down here.

Hicke: Was he there before you?

Fromholz: No, no. The short history of the beginning of the L.A. office [of Morrison & Foerster] is that the firm was general counsel for Crocker Bank back then. That is, Crocker sent all their work to us.

Hicke: What period are we talking about?

*[Phone connection drops—we redial]*

Hicke: You were just talking about Crocker Bank.

**Crocker Bank**

Fromholz: Yes. The firm at that time, this would have been in the mid-1970s, had its eye on opening an office in the San Jose/Santa Clara area, and had a committee that was looking at it. I think the committee had presented a report recommending opening an office. Right about that time, Crocker Bank, which was our biggest client at that time and for which we were general counsel, overnight bought a branch network from the old U.S. National Bank in Southern California. It had been a Northern California bank for all of its life before that time. Then, all of a sudden, it became a statewide bank with a big banking network down in Los Angeles and San Diego. And they wanted their lawyers to be in Los Angeles. And so, the firm heeded that call and decided that it would open a Los Angeles office, and we turned our attention to that, and away from Santa Clara.

Hicke: What year are we talking about?

Fromholz: This would have been about 1976.

So, the firm put out the call around the halls of the firm to find at least one banking partner who would be willing to move to Los Angeles, and no one was willing to do it. So then, we broadened the job description a little bit and tried to get a business lawyer of any kind to come down here, and nobody would go. Nobody responded to that either.

Hicke: Why not?

Fromholz: I think a lot of people in the firm had deliberately selected San Francisco as a place to live and work and they liked being there very much and to them Los Angeles was quite different. Also, Los Angeles is looked on with distaste by some people in San Francisco. That's the only explanation I can give you.

Raven: Remember when I came in to see you in your office? It was very short, wasn't it? We both made up our minds that it was a good thing.

Fromholz: Yes. And I think that as a result of that first effort we got a business associate, Jim De Meules, a very good business lawyer, and a banking lawyer, to come down. Then Tom Lee, who was a general business partner and a peripatetic sort of a guy, agreed to spend some time in the L.A. office. I think he was spending time elsewhere as well. And I think Doug White, who was a litigation partner, agreed to spend some time in Los Angeles. So we tried to get the office off the ground that way, with those people from our then only other existing office, San Francisco, together with people hired from the local market. We also took on Wally [A. Wallace] Tashima. Wally was a lawyer who worked a lot with Bob. He was a client. He was

the in-house general counsel for Spreckels Sugar, which was an important client of the firm. So we knew he was a very good lawyer. His wife's family was from Los Angeles, and I think Bob probably arranged this. Wally agreed to join us as a lateral partner and move to Los Angeles. So he moved to the L.A. office in about 1977. He was a very good lawyer, but he became a federal judge in 1980, and so he was only with us for a short time. So, we first tried to get the office off the ground with a kind of a patchwork of people.

Hicke: Do you mind if I interrupt occasionally?

Fromholz: No, go ahead.

Hicke: Was the Crocker Bank or the U.S. National Bank your only client, or did you develop other clients?

Fromholz: In Los Angeles, you mean?

Hicke: Right.

Fromholz: The firm had other clients who were in Southern California, and we had other opportunities to represent clients should we have an office in Los Angeles. And so we did develop other clients, but Crocker was by far our most important client, and we were general counsel. They didn't have an in-house general counsel. We were the general counsel, and so that's why when they said, "We need you in Southern California," we didn't say, "We'll think about it." We recognized immediately that we had to go.

So anyway, the patchwork arrangement didn't work particularly well. We were unable to make the office grow; we had to increase the size of it both to do the work for Crocker and to establish ourselves and get other clients, and to round our ability to provide full services for the clients. I think the reason it didn't go very well is we didn't have very much credibility here in the Los Angeles market. We had nobody within the firm who—no partner who was willing to come down here. When we went out and tried to recruit partners, and associates for that matter, for the Los Angeles office, that was obvious. There was an apparent lack of commitment on the part of Morrison to the L.A. market. We were saying we wanted them to commit to us, but we didn't have that unspoken, but necessary, commitment in the form of some established partner who had packed up and moved down to southern California.

Raven: When did you go down there, Haley?

**Fromholz Moves to Los Angeles**

Fromholz: I went down in 1980, August. Well, I think I came down in May of 1980 and my family moved down in August. What happened was that we finally broadened the search—we would take anybody, as a matter of fact. Any partner who would go, we would be happy to take them. Then, Bob walked in and talked to me about it one day, and I guess the moon and stars were in the right alignment, or the wrong alignment, depending upon how you look at it. So, I agreed to do it.

Hicke: This was very early days in lateral hiring, wasn't it?

Fromholz: It was. That was uncommon, and I think, Los Angeles, as in many things, was a leader in that. I think maybe because a big part of the population here in Los Angeles has always been from someplace else—so people don't tend to have the deep roots that they do in some other communities. I think that probably played a role. As soon as I got down here, in August of 1980, apart from doing an overwhelming amount of litigation that had piled up, my job was to get out and recruit people. You said, "Who was here, when I got here?" We had an assortment of characters here, *[laughter]* some of whom Bob may remember.

Raven: Yes.

Fromholz: They were good lawyers, but a lot of them didn't have the same idea about what the future held for the office that the firm did. So, there was a bit of a revolving door—at least, we brought in new people, and for a while there were also people leaving.

Hicke: Were these mostly associates?

Fromholz: Both partners and associates.

Raven: Haley, I'm looking here at a document that's out of a newspaper. It's Wednesday, May 16, 1990, and it has a picture of you, me, Tom Unterman, and Rich Fybel, all standing there. I think that's when it was decided that I was going to come down there, too.

Fromholz: I was searching my recollection to try to figure out when it was, but that sounds about right.

Raven: I had just finished up at the ABA<sup>42</sup>—

Fromholz: And I think Tom Unterman might have come down around the same time.

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<sup>42</sup> Robert D. Raven, President of the American Bar Association, 1989-1990.

- Hicke: We have sort of concluded that Bob went down in the fall of 1989. But meanwhile, you had been working down there. What was happening?
- Fromholz: Well, I came down here in 1980, and I was the managing partner of the office and the head of the litigation department. My job was to try to staff the office properly—recruit partners, straighten out the personnel difficulties that we had, and by getting out and being evident, being visible, making it clear that Morrison had a long-term commitment down here. We were lucky, fairly early, to get some very good people to join us out of the local market. Rich Fybel, whom Bob mentioned, was notable among them. He was a terrific lawyer and a terrific person who succeeded me as the managing partner and has recently gone onto the bench, as I did.
- Raven: Haley, when you went down there, were Seth and Shirley Hufstedler there at that time?
- Fromholz: They had their own firm. The Hufstedlers had a small firm that merged with Agnew Miller & Carlson sometime around the time I came down. Then over the next ten or twelve years, that firm sort of drifted along and eventually broke up. They came over to our firm after I had left. I left in September of 1994, so Seth and Shirley came over—it could have been as early as 1994, but more likely it was 1995, 1996.
- Hicke: Was Los Angeles an individual profit center?
- Fromholz: No. No, the firm has never done that. That was really an article of faith with us, that we were all one firm. Of course, it was very important to me and to other people, whom I was trying to get to join us in Los Angeles, that that be the case. If we had had individual profit centers from the moment I came down here, the L.A. office undoubtedly would not have shown a profit. So, no, it was important to us that we all be one firm. Of course, if you have individual profit centers, there is a disincentive for lawyers in one office to share work with lawyers in another. Lawyers in San Francisco would have had an incentive to litigate whatever cases came their way, down here in Los Angeles, rather than sending them down to the Los Angeles office. So, that was a very important point. To my knowledge, it has remained the philosophy of the firm.
- Hicke: Is it worth describing this incident when you and Bob were talking in your office?
- Fromholz: The way I remember it is that, Bob and I were both on the management committee of the firm. I think Bob was the chairman of the firm, or managing partner, or whatever we called our CEO at the time. So, we were both heavily involved, over the years, since 1976, in trying to identify partners and induce them to go to Los Angeles. It had been without any

success. It had been frustrating for us and our clients. Then my compatriots kind of turned on me in 1980, and Bob came in and said, “Well, we can’t find anybody else. How about you?” *[laughter]*

Hicke: It’s nice to be needed.

Fromholz: Yes, it’s nice to be needed. *[laughter]* As I say, I hadn’t thought about it, but I was ready to do something different and, as Bob will tell you, I’ve always been over on the right-hand end of the firm’s spectrum, which probably puts me about in the center, nationally. I was getting a little tired of some of the things about San Francisco, some of the politics, and public policy that was evident there.

Raven: Haley, I’m reading from this Wednesday May 16, 1990 newspaper article. It says the Los Angeles office grew 43 percent, the San Francisco office grew only 3.5 percent. *[laughter]*

Fromholz: Yes, that sounds about right. By then, we were growing like gangbusters. Then, of course, things got a little tough.

Raven: Unterman didn’t stay too long with us, did he?

Fromholz: No. Tom was very growth-oriented in a period of time when there were some signs that things were turning down. We had to reduce the size of the office, not too long after that. There was a recession in the early 1990s, and it hit Los Angeles particularly hard because it was compounded by the reduction in demand for aerospace and defense products. That was the biggest industry in Los Angeles—aerospace—up until the mid-1990s. When the Berlin wall came down, the demand for that kind of product or service just plummeted. It really hit Los Angeles hard at the same time there was a recession, generally. We were a little late to see the signs, so there was a reduction in the number of lawyers around 1994, something like that. Of course, the firm has recovered dramatically since then.

### **Raven Joins the Los Angeles Office**

Hicke: Let’s go back to when Bob came down. Can you tell me about that?

Raven: Well, I didn’t really come down until 1989—late 1989.

Fromholz: Well, you know, one of the things that has been a problem for us on the litigation side, was—we were interested in big cases, big litigation that would bear our fees and would provide the kind of work that our lawyers wanted to do, and that we thought we were good at. One of the problems is that if you’re a branch office in a town like Los Angeles, a company from another city who has a big piece of litigation in Los Angeles and doesn’t

have regular counsel there, will say, “Find me the three or four of the best firms in town.” O’Melveny & Meyers, and Gibson, Dunn & Crutcher would always be on the list because they are big, excellent, native firms here in Los Angeles. And Latham & Watkins would be on the list. Irell & Manella, and a few others sometimes, as well. As a branch office of another firm, you’re hard-pressed to get onto that list. Now, in San Francisco, Morrison is right at the top of the list and always has been.

With Bob’s position and his renown and his reputation, we thought he could change that. He could elevate our image—our profile—dramatically, so that we would get on the short list. And it worked out that way. As soon as Bob came down here, he became a prominent member of the legal community. He was taken in as a member of the Chancery Club, which is a private club of lawyers in Los Angeles, a self-appointed organization of the more prominent lawyers in town. Normally, it takes quite a while to become a member of it. I didn’t become a member of it until 1993, or thereabouts. Bob was taken right into it. That kind of recognition gives one entrée to most of the well-known, prominent lawyers in town, which is helpful. Then, when one of them gets asked, “Who are the best litigators in town?” or, “What are the best firms to handle a big piece of litigation in town?” you’re more likely to be mentioned. You are better known.

Then, Bob was also—I don’t know the exact title here—but a leader of the Legal Aid Foundation, which is one of the big legal charities—

Raven: I got very involved in that.

Fromholz: He might have been the chairman of it.

Raven: I don’t think I was ever chair, but—

Fromholz: I know that Bob had some high position in it. Then he brought me in to run their annual fundraising campaign. That would have been in the early 1990s. So, I don’t know exactly what the titles were, but Bob had a very prominent position in it. Then I ran their annual fund drive in Los Angeles that year, at Bob’s request. That certainly elevated the profile of the firm, because the people who are in that position every year, are usually very well known members of the legal community. So, that was a concrete example of the effect of having Bob down there.

*[The following story was told to Eileen O’Hara by Barbi Phillips:]*

Phillips: I worked for both Bob Raven, who was a Democrat, and Haley Fromholz, who was really big in the Republican Party. He probably still is. He did a lot of Republican Party fundraisers and other activities for the Party. Bob, at the same time, did a lot of Democratic Party fundraisers. At one point, I was

doing all the invitations, and so forth, for a fundraiser for each of them—one for the Republicans and one for the Democrats. I noticed that in Haley’s list of invitees, he had someone who I knew quite well, who was a Democrat and had been a delegate at the Democratic National Convention when it was held in Chicago. When I pointed that out to Haley, he picked up the invitation and said, “Here, Bob. This one’s yours,” and tossed it onto the pile of invitations for Democrats. They had a lot of fun joking about that all the time, although I never heard them discuss politics. I think that was by mutual consent.]

Hicke: Can you tell me about any specific cases or litigation that Bob handled down there?

Raven: We had a big one down in Florida, didn’t we?

Fromholz: Yes, the Harris case. We represented a firm called Harris Corporation, and Bob was instrumental in bringing that in. It was a very big and intensely litigated patent case.

Raven: I’m trying to think of the other big one we had down in the southern part of the state.

Fromholz: Yes, that’s the one I remember, because I worked on that one. I’m sure there were a lot of others, but they don’t come readily to mind.

Raven: I was there, I think, for about three years. I left and came back home while you were still there.

Fromholz: Yes, that’s right.

Raven: What was the name of the secretary, who was such a good one? She took care of you and then she helped me some?

Fromholz: Barbi Phillips? Yes, that’s right. I think we shared a secretary.

Raven: I understand that she’s out on vacation right now. I can’t get hold of her.

Fromholz: That reminds me—one of the things that made it evident to the people in the office what kind of person Bob is—when Bob came down, there were some corner offices in our space which were very nice, and they were usually distributed by seniority. In another firm, if another person with Bob’s stature in the firm came down to the Los Angeles office, he would have said, “Well, I’d kind of like one of these corner offices on the north side of the building on the most desirable floor.” And that would have been that, and whoever was in it would move out. But, of course, that wasn’t Bob’s way. He just came down and he took what was available.

Raven: I got one right next to you, didn't I?

Fromholz: Yes. It was the one next to mine. I had the better office, and he could have kicked me out, but he didn't do it.

Hicke: He didn't ask for a rubber plant, either? *[laughter]*

Fromholz: No. Of course, people watch that kind of thing. People who didn't know Bob personally, would look at what he did more than what he said, just to see what kind of a person he was, and what they could expect from him. That was an important sign, I think.

*[The following story was told to Eileen O'Hara by Barbi Phillips:]*

Phillips: Shortly after Bob came to LA, Jennifer Herman (our LA office administrator) told me that she was really nervous about Bob being here for Halloween. You see, everyone in the LA office dresses up. We have a costume contest, a lunch party, and *trick or treating* in the afternoon. She thought that someone at Bob's level of prestige would object to such frivolous activities. She needn't have worried. Much to Jennifer's relief, Bob showed up dressed as a cowboy and thoroughly enjoyed all the activities.]

Hicke: May I stop you for a moment? I need to turn the tape over. It will only take a second.

Fromholz: Go ahead.

[End of Tape 1, Side A]

[Begin Tape 1, Side B]

Hicke: OK. We're back on.

### You Are What You Drive

Fromholz: I remember one thing about Bob's coming down here that I thought was awfully funny. When he came down, he drove down in the car that he then had, which was a Mazda RX7.

Raven: That's right.

Fromholz: It had that rotary engine in it, which Mazda was touting, and I guess it had some advantages, but it never really took off. But anyway, the car was probably, six or seven years old and fairly beaten-up.

Raven: Was that the little red one?

- Fromholz: I forget what the color was, but it was a little two-door sports car that Mazda had put out. It was six or seven years old, which is OK, up in San Francisco. But I told Bob, “You’re down here, now. Up in San Francisco you have probably heard the expression, ‘You are what you eat.’” You know, with all those vegetarians and all those health food people up there. But I said, “Bob, down here, our motto is, ‘You are what you drive.’”  
*[laughter]*
- Raven: Now, I took your advice, didn’t I?
- Fromholz: He caved in. He went native. He got rid of that car, and he got himself a big Lexus. *[laughter]*
- Raven: I still have that. That’s quite a car.
- Fromholz: Well, they’re great cars.
- Hicke: That’s a great story.
- Fromholz: He got himself a big LS-400 Lexus. It’s like driving on a cloud, as befits a man of Bob’s station.
- Hicke: I think what you need around here is a tank, or one of those Hummers.
- Fromholz: Well, you do now, I guess. Yes, it’s probably more like L.A. up there now. We’re very superficial and materialistic down here.
- Hicke: So they say.
- Fromholz: So people look at what you drive, and they judge you based on that, and you, in turn, have to sit down and figure out how you’re going to express yourself before you buy a car. It’s not a casual thing.
- Hicke: That kind of relates to your story about the offices. Are you, also, what your office looks like?
- Fromholz: That probably has some—within some firms and maybe with some clients—has some significance. Morrison has never been a firm that has gone for big offices. We’ve always had fairly a standard size for partners and a standard size for associates. But down in the L.A. office, the way the building was laid out, there were corner offices. They were really nicer than the other ones. That is, you’d have a corner office with glass on two sides. And if you were on the north side of the building, it was cool—you didn’t get a lot of direct sunlight. And also, the views were nice, so that when the air was clear, you could look west and see the Pacific Ocean, and look northeast and see the snow on the San Gabriel Mountains. It’s quite a dramatic view.

Raven: That was a nice office you had there.

Fromholz: Yes. *[laughter]*

Raven: Well, mine wasn't too bad. *[laughter]*

Fromholz: Yes. But they were not gigantic, and they were not—

Raven: Well, that's the way it ought to be.

Fromholz: Yes, well, I know. But there are other firms that aren't like this. There are other firms where, if a partner has enough leverage they can get whatever they want. Morrison has pretty much resisted that over the years, although, I think when we went into New York, we began to slip a little bit on that front.

Hicke: It's a different world.

Fromholz: Yes. It's a different world, different cast of characters. That's another story. I remember one other thing that struck me as funny. Bob probably doesn't even know about this. But Bob had an apartment over in a building—

Raven: Up on top of the hill.

Fromholz: It was up on Bunker Hill, and it was right next door to what had been our offices in the Wells Fargo Building. When we moved down to 5th and Grand, it was maybe three blocks away. It was a utilitarian sort of address. Unlike San Francisco, people don't aspire to live in downtown Los Angeles. There are people who do. There are a number of lawyers who do, but they'll have their principal residence some distance from the city, maybe up in Santa Barbara, or in Montecito, or down in Newport. And they'll have an apartment in the city, and they'll spend four or five days a week down there and then head for their real home. Then there are people who get divorced, and they have an apartment while they are getting settled again. But there is nothing going on in downtown L.A. after hours. But being all business, as he is, Bob had an apartment down there. As you may know, Bob is, among other things, very meticulous. He has that great combination that a good litigator has to have, that is to be able to see the big picture and be able to conceive new ideas and see the forest. But at the same time be just as thorough and painstaking and meticulous as some green-eye-shade clerk. Every piece of punctuation has to be right. Everything has to be right.

Hicke: It all adds up.

Raven: That's the Dane in me.

Fromholz: It all adds up. Anyway—let me digress for a minute on that subject. I remember when I was a young associate, and Bob and I were working on a case, and Pillsbury Madison & Sutro was on the other side. Bob had great admiration for Pillsbury and for the lawyers on the other side. He said, “One of the things that makes Pillsbury so great is, everything they produce, every piece of paper they produce is correct. If you read a piece of correspondence from them, it’s always grammatically correct. Punctuation is correct. If you read any brief they file, the same thing is true. The citations are always right, and when they discuss a case, they’re right about it.” And he said, “That does two things: one, it is intimidating to your adversaries, and the other thing is that it develops tremendous confidence in the judge, so that when the judge gets papers from a firm like Pillsbury, and they’re always right, then the judge gives them credit, where sometimes they don’t deserve it. You tend to develop a reputation that can be of tremendous value to you.” And it’s absolutely true. And of course, everything that went out under Bob’s tutelage and under his direction, was the same, up to those very strict standards. Now that I am a judge, I realize how right he was.

Anyway, the story is that, one time I was in my office down here, pretty late in the evening. Bob’s son, Matt, the older son, was down here visiting. Bob was off some place, and Matt was down in Los Angeles for some reason, and he was using Bob’s apartment. So, Matt came over to the office, and he was wandering around, and I’d known him for years, because when I was up in San Francisco, he was a young kid, and I used to see him at the firm picnics while he was growing up. So, I knew him. And he stopped in and sat down and said hello. I asked him how things were. He got around to talking about Bob’s apartment. He said that when he got there, Bob—meticulous as he is—had left little *Post-Its* all over the apartment for Matt.

Hicke: “Wash out the coffee pot?”

Fromholz: Yes, he said he put a *Post-It*, for example, next to the light switch, saying, “This is the light switch. Be sure to turn this off when you leave.” There was one over by the stove saying, “This is the stove. Be sure to turn off all the burners before you leave.” *[laughter]* “This is the sink. Make sure the water isn’t dripping when you leave.”

Hicke: You aren’t exaggerating, or anything, are you? *[laughter]*

Raven: Chris Raven, my father, was responsible for all those things.

Fromholz: I’m not exaggerating much.

Hicke: No.

Fromholz: I had a great laugh with Matt about it.

- Raven: Matt, you know, is still out in Mississippi. They love it out there.
- Fromholz: Is that right?
- Raven: They have one child, Roxanne, and she's wonderful. Everyone was up on the July 4th weekend.
- Fromholz: Well, that's terrific. He's a wonderful young guy.
- Raven: Yes, he's done very well out there.
- Fromholz: Well, anyway, Bob's character, in other words, pervaded the office and the home, apparently. His attention to detail.
- Raven: This weekend I'm going up to the farm. I've got a little place out in back, and my daughter, Marta, tells me that my files are all up there on this.
- Fromholz: Is that right?
- Raven: Yes. So I'm going to dig those out.
- Fromholz: The files that cover this period?
- Raven: Right.
- Fromholz: Well, maybe they were shipped from Los Angeles to up there.
- Raven: Probably were.
- Fromholz: Carole, I gather you've got a call in to Barbi Phillips?
- Hicke: Eileen O'Hara has tried to contact her, but as you know, she's away on vacation, so we can't talk to her at the moment.
- Fromholz: You know, Barbi's husband died not too long ago.
- Raven: You know, I heard about that somehow. That's kind of a shocker.
- Fromholz: He had had diabetes for a long time, so I guess, as is typical with that disease, he had circulatory problems and other problems off and on. I don't know how surprising it was, but, of course, it was a terrible blow to her.
- Raven: Were there a couple of boys? A couple of big guys?
- Fromholz: There are two boys, and they are now in college. I think the older boy is probably a junior or senior in college, and the other one is a freshman or sophomore.

Raven: Pretty big guys, I bet.

Fromholz: The younger son, especially, was a very good football player. The older boy is a baseball player. When I came down [to L.A.]—just to go back and reflect a little bit on the office—when I came down, there were fourteen lawyers, I think, and I don't know how many staff members, but probably more or less an equal number, maybe twenty-seven. Over the space of the next few years, there was a turnover of all the lawyers, except for Donna Zenor and Alan Benjamin, and of course, Alan left in the early 1990s.

Hicke: All of them, but two?

Fromholz: Yes. As of now, there is only one lawyer who was there when I got there, and Barbi Phillips is the only staff person who was there when I got there. So, the staff turned over during the next four or five years, as well. There are only two people now, who were there when I got there.

### Los Angeles Office Takes Off

Hicke: Do you have some sense of when the things started to turn around for that office? You've told me, in general, but—

Fromholz: Well, I think it would have been fairly soon. In 1981, for example, we hired Rich Fybel as a partner; Barbara Reeves first as an associate, then as a partner.

Raven: You had some good people.

Fromholz: Then Henry Fields on the business side. Those names come readily to mind. So that was 1981. That was the year after I got there. They were all very strong people. All very good lawyers—people who were able to take heavy responsibility right away. So, that certainly helped us dramatically, right off the bat. I am sure if I saw a list of names, I could give you a more complete summary.

Hicke: So, were they bringing in clients, besides winning what cases they tried?

Fromholz: Well, yes, but I think it was principally handling the work we had. We had, from Crocker and from other clients who liked the firm because they worked with us in San Francisco and were willing to give us work in Los Angeles, we had work. But, we didn't have the staff to handle it. When I got there, I was just buried in litigation.

Hicke: OK. So it wasn't a lack of clients.

Fromholz: It wasn't a lack of clients. It wasn't a lack of work at the outset. It was really a matter of finding people to do the work, and then once we got our

head above water, we could start pursuing more work. We got a lot of work, and I found the Los Angeles legal community to accept us quite readily and to be very helpful to us. People I met through litigation or met through office management panels, that kind of thing.

Hicke: Bob is nodding his head, here, in agreement, I assume.

Raven: Yes.

Fromholz: Yes. I remember a guy over at Paul Hastings [Janofsky & Walker] named Oliver "Ollie" [F.] Green, who was a senior litigation partner over there. He was very nice to us. We were able to bring him in to a case where we were representing Bank of America. We brought him in to represent, I think, some directors. But on his own, he was very nice to us and a big help to me, as were a number of other people that I have gotten to know.

Hicke: Did you go out to aggressively hire laterally?

Fromholz: Yes. We certainly did. We used a headhunter, which is the polite way of doing it. But we used the direct approach, also, on some other candidates. You know, as it turned out, as you would expect, the batting average is pretty low when you go out and call people up and say you would like them to join you. I remember one partner at Gibson Dunn [& Crutcher], and another at O'Melveny [& Meyers] that I tried out. But they both said, "No." But they both got to be friends. They were both business partners, and I was trying to build up our business practice. They are both great lawyers. So, it was a nice way to get to know some people.

Hicke: O'Melveny is still rolling along, aren't they?

Fromholz: They still seem to be doing very nicely. They are doing well. Gibson is doing well. They are both very good firms.

Hicke: When Bob got there, did that help in attracting people? I assume it did.

Fromholz: Yes, of course. It was more of our commitment, and it raised our profile and made us a more attractive firm to laterals, as well as to clients.

Hicke: Bob, did you interview people to hire them down there?

Raven: I don't think so, no.

Hicke: It wasn't part of your job description?

Raven: No.

Fromholz: I don't think Bob was going out beating the bushes like I was. But I think when we got a candidate, Bob would always talk to them. We would make a point of giving them the opportunity to talk to Bob, especially if they were candidates for litigation. I remember vividly one very prominent litigation partner at another firm that Bob and I interviewed together. I won't mention his name, since this is public, and this is getting taped. But in that context, I was the one who made the contact and brought him in, but Bob certainly interviewed him. To the extent we were planning on proposing, at least litigation candidates to become litigation partners, laterally, you can understand the firm would expect to know what Bob's view of the person was, as well as mine and the other partners in the litigation department. So, he certainly interviewed them, if he was available. But I was the one who was out doing the cold calls and stopping people on the street.

So, what else do you need to know?

Raven: Nothing now, but as I get more into it, I'm sure that I will.

Fromholz: I don't have any documents or anything to refresh my recollections, so I'm sure I'm forgetting a lot of things. You can certainly feel free to call me back and if you have something that might jog my memory about it.

Hicke: That's very good of you. I don't know what we'll turn up in the way of documents, but we'll see.

Fromholz: Well, we're like a couple of deposition witnesses who are being deposed without benefit of any contemporaneous documents. I sound a lot like Bill Clinton, here.

Hicke: Well, with that note, we should let you get back to work. I want to thank you very, very much for setting aside some time for us.

Fromholz: It's my pleasure. And Bob, it's nice to talk with you again.

Raven: Awful good to talk to you, Haley.

Hicke: Goodbye.

*[telephone connection with Los Angeles terminated]*

Raven: He's a great guy. He's very straight. You can't get much better than that.

Hicke: Right.

[End Tape 28, Side B]



**Bob Raven Reviewing His Oral History Transcripts. Fall 2000.**  
Photo: Eileen O'Hara



**Eileen O'Hara & Bob Raven  
preparing for interview with Haley  
Fromholz. July, 2000**  
Photo: Carole Hicke





**Bob & Corky at the Lafayette Reservoir, 2000**  
Photo: Leslie-Kay Raven



# APPENDIX A



## INTERVIEW PARTICIPANTS

### WILLIAM H. ALSUP

Mr. Alsup received his M.S. degree in mathematics from Mississippi State University in 1967, and his joint M.P.P.-J.D. degree from Harvard University in 1971. Mr. Alsup was a law clerk to Justice William O. Douglas in 1971 and 1972. He became an associate at Morrison & Foerster in 1973 and a partner in 1977. From 1978-1980, he was an Assistant to the Solicitor general in the United States Department of Justice in Washington, D.C. In 1980, he rejoined Morrison & Foerster's trial lawyers in San Francisco, where he has since practiced. Since 1987, he has been selected as one of the "top ten percent" of all Business Litigation trial lawyers in the United States, according to *The Best Lawyers in America*. In 1993, he was elected to a three-year term as a lawyer delegate to the Ninth Circuit Judicial Conference.

Mr. Alsup specializes in complex civil litigation. He has tried twelve cases to verdict or judgment (excluding cases settled during trial), argued six cases in the United State Supreme Court, and argued before the courts of Appeals for the Ninth Circuit and the Fifth Circuit, the California supreme Court, the California Court of Appeal, the Hawaii Supreme Court, and the federal and state courts in California, Nevada, Hawaii and Guam. He has also appeared as counsel in arbitrations and acted as an arbitrator.

Mr. Alsup's experience comprehends a broad range of complex cases, primarily including patents, copyright, contract, fraud, lender liability, antitrust, RICO, securities, unfair trade practices, class actions, civil rights, will contests, administrative review, whistle blower cases, unlawful discharge litigation, and grand jury investigations. These cases have covered several industries, primarily commercial and consumer banking, investment banking, mortgage banking, computer manufacturing, chip manufacturing, accounting, real estate, cogeneration, leasing, and the manufacture, distribution and sale of various consumer products and medical diagnostic equipment.

Mr. Alsup's cases have been for both plaintiffs and defendants. For example, on the plaintiff side, Mr. Alsup was the lead counsel in a successful antitrust tying case against a major computer manufacturer; for a plaintiff bank in one of the earliest successful civil RICO actions against an investment banking firm, a law firm, and an aerospace company arising out of the OPM scandal; for a bank in a lender liability suit, vindicating the bank client and obtaining a jury verdict and judgment against the claimant borrower for punitive damages; and for the FDIC in its successful jury verdict against a national accounting firm arising out of the collapse of a California leasing firm.

On the defense side, Mr. Alsup was lead counsel in defending an ultrasound manufacturer against patent infringement claims; in defending several class actions brought against national banks for alleged unconscionable bank fees and unfair business practices concerning

deposit accounts, and has defended other consumer-oriented businesses against charges of alleged unfair business practices. He also assisted in the resolution of a class action in Hawaii arising out of the introduction of heptachlor into the milk supply of Hawaii. Mr. Alsup was counsel in exonerating a bank in a suit brought by a purchaser of a borrower claiming that the bank conspired with the borrower to conceal its true financial condition from the purchase, and for a Bay Area distributor in defending a price-fixing case.

From 1985 through 1987, Mr. Alsup was the chair of Morrison & Foerster's Litigation Department. He serves on a number of committees assisting the state and federal courts, including the ABA Standing Committee on Amicus Briefs. He serves as pro tem judge in the Superior Court and volunteer arbitrator. He lectures on complex trial practice and teaches at various trial clinics. He is a member of the American Law Institute, the American Bar Association, the California State Bar, and the Bar association of San Francisco.

Mr. Alsup serves as an officer on the boards of a number of public interest law firms and foundations and is one of the founders of the Yosemite Restoration Trust. He was the President of the San Francisco Legal Aid Society for the two-year term 1991 to 1993, and a long-time board member. He has published articles on the United States Supreme Court and on the decision of *Perdue v. Crocker National Bank*, 38 Cal. 3d 913 (1985), and authored a book entitled *Such a Landscape!* published by the Yosemite Association, retracing the 1864 expedition of the California Geological Survey into the Sierra. Mr. Alsup is also an FCC-licensed amateur radio operator (advanced class N6XMW).

Since the interview with Bob Raven, Mr. Alsup has been elevated to serve as a judge on the United States District Court for the Northern District of California.



### JAMES P. BENNETT

Mr. Bennett was born in San Francisco, California, in 1950. He received a B.S. degree from the University of California, Berkeley, in 1972, and his J.D. degree in 1975 from Hastings College of the Law, University of California. He was a member of the editorial staff of the *Hastings Law Journal* and a member of the Order of the Coif.

Mr. Bennett has a general commercial litigation practice encompassing all manner of complex commercial actions including securities and RICO cases and actions for breach of contract and business torts, including fraud, trade libel, products liability, misappropriation of trade secrets, employee and distributor termination, and insurance bad faith. Mr. Bennett has also handled a number of cases involving construction and design issues. He has extensive background in the Uniform Commercial Code provisions, as well as the common law principles, applicable to these cases. He also has extensive experience litigating the damage issues that normally accompany such cases, including claims for extra work and delay damages. Mr. Bennett also has extensive experience in the field of administrative law,

principally representing complainants and intervenors in proceedings before the California Public Utilities Commission.

Mr. Bennett has tried numerous civil and criminal cases in state and federal trial courts. He has appeared extensively in the San Francisco, Alameda and San Mateo Superior Courts, and United States District Courts for the Northern and Eastern Districts of California. His trial accomplishments include a \$10 million judgment for an inventor client in a trade secret case involving medical apparatus. Mr. Bennett recently secured a \$27 million verdict, including a \$21 million punitive damages award, on behalf of an insured in a bad faith case. Most recently, in the summer of 1998, Mr. Bennett has secured a liability verdict on behalf of over 200 individuals and businesses against numerous state and local government agencies in a case involving damage caused by the March 1995 flooding of the Pajaro River in Monterey, California. Damages in the case (which will be determined in a later phase of trial) are estimated to exceed \$40 million.

Mr. Bennett was named firmwide Chair of the Litigation Department in 1999. Mr. Bennett has argued in the California Supreme Court and Courts of Appeal and the Ninth Circuit.



#### STANLEY A. DOTEN

Mr. Doten was born in Montevideo, Minnesota, in 1939. He graduated from Harvard College (1961) and Stanford Law School (1964). He associated with the firm of Morrison & Foerster in 1965, and became a partner of the firm in 1971. He is admitted to the bars of California and Colorado. Mr. Doten is a member of the American Bar Association sections on Antitrust Law and Litigation. Mr. Doten is currently acting as of counsel to Morrison & Foerster.

Mr. Doten has had 33 years of experience in pretrial preparation and in court and jury trials in state and federal courts. He is presently in our San Francisco office and was previously in our firm's offices in Washington, D.C.; Denver, Colorado; Palo Alto, California; and Tokyo, Japan. He has represented clients in actions involving patent and copyright claims, insurance coverage in toxic tort and environmental cases, asbestos in buildings, construction defects, antitrust, securities, trade secrets, commercial banking, real estate, breach of contract, fraud, legal malpractice, wrongful discharge, and domestic relations. He has acquired substantial expertise in antitrust law and trade secret law, largely in the electronics field with particular emphasis on computers, as well as in real estate law and in consumer class actions against commercial banks and other lenders. In addition, he has represented clients in administrative agency proceedings in the telecommunications industry.

He has served as a member of the Central Coast Regional Coastal Commission, as a member of the Assessment Appeals Board in San Mateo County, and as a Judge Pro Tem in the Superior Court of San Mateo County and Santa Clara County, California. He has been a member and Vice Chair of the Board of Trustees of the Legal Aid Foundation of Colorado.



### KERRY A. EFIGENIO

Kerry Efigenio joined Morrison & Foerster in 1984 as a legal assistant in the firm's litigation department. In 1985 she began working with Robert Raven in his bid for the presidency of the American Bar Association (ABA). Ms. Efigenio worked with Mr. Raven during his terms as President-Elect and President of the ABA helping to coordinate the many duties of this position. In 1989 following the end of Mr. Raven's presidency, Mr. Raven resumed his private law practice full time and Ms. Efigenio resumed her duties as a legal assistant in the litigation department.

In 1992, Ms. Efigenio transferred to the firm's Marketing Department working on media relations for the firm. Currently, she serves as Media Relations Manager for Morrison & Foerster.



### GORDON P. ERSPAMER

Mr. Erspamer is Co-Chair of Morrison & Foerster's Energy Litigation Group. He received his B.A. degree summa cum laude from Hamline University in 1975 and his J.D. magna cum laude from the University of Michigan in 1978. He was an Associate Editor of the Michigan Law Review from 1976-77 and Note Editor from 1977-78, and a member of the Order of the Coif. Mr. Erspamer associated with Steinhart, Goldberg, Feigenbaum & Ladar in 1978, and Morrison & Foerster in 1982. He became a partner of Morrison & Foerster in 1984. Until 1995, he was resident in the San Francisco office, at which time he relocated to the Walnut Creek office.

Mr. Erspamer engages in the litigation and trial of complex civil actions in both state and Federal courts. Mr. Erspamer has been lead trial counsel in a number of different legal settings, including jury trials, judge trials, and arbitrations, and has accumulated over a year of trial experience. Mr. Erspamer has handled complex litigation matters in Superior Courts located throughout Northern California. In addition, Mr. Erspamer has frequently appeared in the United States District Courts for the Northern and Eastern Districts of California and the Ninth Circuit Court of Appeals. Mr. Erspamer was admitted to practice before the U.S. Supreme Court in 1984.

Mr. Erspamer's primary areas of concentration are energy and telecommunications litigation, with particular emphasis upon representation of new entrants in disputes with traditional utilities. Mr. Erspamer's experience in energy litigation dates back almost twenty years to cases filed after the adoption of the Emergency Petroleum Allocation Act of 1974. Mr. Erspamer has represented a host of QFs and independent power producers, including AES,

GWF Power Systems, Simpson Paper Company, Destec Energy, Wheelabrator Shasta Energy Co., Sierra Pacific Industries, Fairhaven Power Company, Rio Bravo Poso, Sacramento Power, Inc., and Pacific Energy, in civil actions against investor-owned and municipal utilities, including PG&E, Southern California Edison, and the Sacramento Municipal Utility District. For example, Mr. Erspamer has represented a series of QFs arising out of PG&E's breaches of contract and unfair business practices in the administration of the QF program. Several of these cases were coordinated in San Francisco Superior Court as the Power Producers Dispute Cases, Judicial Council Coordination Proceeding No. 2654, which resulted in a seven-month jury trial in 1993-94, and settled while the jury was deliberating. Mr. Erspamer's other energy clients have included energy service providers such as NewEnergy, Inc., irrigation districts, joint powers authorities, and municipalities.

Mr. Erspamer has also represented companies in disputes with utilities concerning gas issues, as exemplified by his representation of Northern California Power Agency in a lawsuit concerning PG&E's expansion pipeline. In addition, Mr. Erspamer successfully represented Independent Energy Producers (IEP) and several QFs in a Ninth Circuit appeal of a preemption action against the CPUC related to its adoption of an efficiency monitoring program for QFs.

Mr. Erspamer has also drawn on his extensive experience litigating disputes with traditional utilities to represent competitive local exchange carriers ("clecs") under the Telecommunications Act of 1996 in disputes with incumbents. For example, Mr. Erspamer represented Pac-West Telecommunications in federal court appeals by GTE, Pacific Bell and Nevada Bell of state commission rulings requiring the payment of reciprocal compensation for termination of Internet traffic.

In addition to his trial work in the energy and telecommunications areas, Mr. Erspamer has provided strategic advice to a number of clients on energy issues, including electric industry restructuring. Mr. Erspamer also has been a frequent panelist on energy issues, most recently at seminars sponsored by the Association of Bay Area Governments and the Los Angeles Power Producers Association.

In 1987, Mr. Erspamer received the Vietnam Veterans of America "Dean K. Phillips Memorial Award for Advocacy" in recognition of the firm's pro bono work on behalf of disabled veterans and Mr. Erspamer's role in legislation providing for judicial review of VA decisions. In 1990, Mr. Erspamer accepted the National Association of Radiation Survivors "Justice Award" for the firm's pro bono efforts on behalf of the organization and veterans exposed to ionizing radiation during the atmospheric nuclear tests. Finally, in 1992, Mr. Erspamer was named "Trial Lawyer of the Year" by the Trial Lawyers for Public Justice Foundation in Washington, D.C.

### HALEY J. FROMHOLZ

After nearly 30 years spent in courtrooms practicing business law and working his way up the ranks to partner at Morrison & Foerster, Mr. Fromholz is currently serving as judge on the Los Angeles County Superior Court, where he presides over criminal and civil trials.

Mr. Fromholz attended Dartmouth College, but left after three years to join the U.S. Army, where he served on active duty during 1960, and as a reservist from 1960 to 1966. In 1961, he went to work as a systems engineer for a fledgling company in Manhattan called IBM. He finished his Bachelor's degree at New York University in 1964.

He studied law at Duke University, and was hired before graduation in 1967 as an associate at Morrison & Foerster in San Francisco, which at the time employed about 30 attorneys. He represented plaintiffs and defendants in cases involving intellectual property, copyright infringement, federal antitrust and trade regulations, breach of contract suits and many other business matters. In addition to litigating full-time, transferred to Los Angeles to become managing partner from 1980 to 1987 and was chairman of the litigation group in the Los Angeles office from 1980 to 1994.

In 1994, Mr. Fromholz was appointed to the bench by Governor Pete Wilson.

Mr. Fromholz reads avidly, particularly biographies and modern European history, and is the current president of the Duke Law School Alumni Council. He is very involved in a host of other charitable and community causes, including the Constitutional Rights and the Legal Aid Foundations, and served as vice-chairman of the Mediation Committee of the American Bar Association.



### MELVIN R. GOLDMAN

Mr. Goldman is a graduate of DePaul University (1958) where he majored in accounting and was elected to membership in Beta Gamma Sigma, the business honorary society. In 1961, he graduated from Northwestern University School of Law after serving as Managing Editor of the Law Review and being elected to the Order of the Coif, the law honorary society. In 1963, he graduated from Stanford University School of Law with the degree of Masters in Law.

Mr. Goldman associated with the law firm of Morrison & Foerster in 1965. He became a partner of the firm in 1969 and was chair of the Litigation Department of Morrison & Foerster from 1978 to 1982. He is currently the chair of the firm's Partner Compensation Committee.

As detailed below, Mr. Goldman's practice has combined emphases in the defense of antitrust and securities litigation.

**Securities Litigation Experience.** Mr. Goldman's practice has focused on the defense of securities litigation representing numerous companies, financial institutions and their directors and officers in defense of class and derivative litigation and SEC actions involving a variety of accounting and financial disclosure issues. He has also been retained by several law firms and accounting firms in defense of securities claims made against them. He has lectured widely on securities litigation-related topics and lectured at Stanford University School of Law in a course regarding securities litigation. He has also lectured at the Directors' College presented by Stanford Law School in conjunction with the Securities and Exchange Commission.

**Accounting Experience.** At DePaul University, Mr. Goldman majored in accounting and was elected to membership in Beta Gamma Sigma, the business honorary society. Before attending law school, he was employed by a public accounting firm as an accountant, where he worked on audits of public and privately held companies. For the past 30 years, Mr. Goldman has defended securities-accounting class actions and derivative suits and SEC and other governmental investigations involving revenue recognition, accruals, reserves, audits, restatements, systems, and other accounting and financial reporting claims.

**Antitrust Litigation Experience.** Mr. Goldman also has special expertise in the defense of private and government antitrust actions, including the trial to juries of antitrust suits, the defense of a wide variety of individual and class action antitrust lawsuits in both state and federal courts, representation of companies and individuals in antitrust grand jury proceedings and civil investigative demands, and the defense of civil actions brought by the Department of Justice Antitrust Division and the Federal Trade Commission. Apart from trial, Mr. Goldman has argued antitrust cases in the Ninth Circuit Court of Appeals as well. In addition, he has counseled numerous companies in connection with antitrust compliance, mergers and acquisitions, and other issues arising under federal and state antitrust laws. Mr. Goldman has been a faculty member of the Antitrust Trial Practice Program sponsored by the Columbia University School of Law, where he taught trial courses for government and private practitioners. He has lectured at other antitrust courses, including those sponsored by the Practising Law Institute and the ABA Antitrust Section. He is also a past chair of the San Francisco Bar Association's Antitrust Section.

He has been defending Bergen Brunswig in class actions in Chicago, involving the drug industry. In November 1998, the court granted a directed verdict for the defense.

**Lecturing; Bar Associations.** Mr. Goldman is also active in local, state, and national bar activities. He has lectured to numerous professional organizations in the areas of securities law and complex commercial litigation, including the Practising Law Institute, California Continuing Education of the Bar, San Diego Securities Regulation Institute, and ALI/ABA.

He served as a lawyer representative to the Ninth Circuit Judicial Conference; is a member of the American Law Institute; and is a Fellow of the American Bar Foundation. In 1991, he was appointed by the Chief Judge of the Northern District of California as a member of the Court's Advisory Committee under the Civil Justice Reform Act of 1990. During 1995, he served as President of the Bar Association of San Francisco.

**Trial Experience.** Active in the trials of lawsuits, Mr. Goldman has successfully defended corporations and their officers and directors before juries in securities and fraud actions, as well as other complex commercial lawsuits. He has taught trial technique to government lawyers as well as private practitioners as a faculty member of a program sponsored by the Columbia University School of Law. Mr. Goldman is a fellow of the American College of Trial Lawyers.



### HELEN T. KING

Prior to moving to San Francisco, Ms. King worked for many years in Chicago. In 1986, she became Bob Raven's secretary at Morrison & Foerster. She remained in that position for ten years, until her retirement in 1996. During her tenure as Bob's secretary, Bob was president of the American Bar Association (1988), and changed his status to Senior Of Counsel to the firm in 1994. Ms. King is an avid theater-goer and can be found at A.C.T., Davies Symphony Hall, and at the War Memorial Opera House.



### CAROL S. LARSON

The Packard Foundation

Carol Larson is Vice President and Director of Programs at the Packard Foundation. Ms. Larson is responsible, with the President, for the overall management of the Foundation's grantmaking activities. She supervises the senior program directors, working with them to implement current programmatic guidelines and plans for the future of the foundation's six program areas: Science; Population; Conservation; Arts; Organizational Effectiveness and Philanthropy; and Children, Families, and Communities. In 2001, the Foundation expects to award \$550 million in grants.

Ms. Larson joined the Foundation in 1989 as Director of Research and Grants, Law and Public Policy, at the Foundation's Center for the future of Children. In this role she worked primarily on child health and child welfare issues, as well as edited and wrote for the *Future of Children* journal issues on Drug Exposed Infants, School-Linked Services, Home Visiting, Sexual Abuse of Children, and Juvenile Courts. She then held the office of Director of Programs from 1995-1999, and IN January 2000 was appointed Vice President and Director of Programs.

Ms. Larson is a board member of Northern California Grantmakers. She is also a board member of Grantmakers for Children, Youth and Families since 1988, and has served that organization in several roles (Secretary and member of the Executive committee 1998-present; Communications Committee Chair 1994, 1998-present; Program Committee chair 1991). In 1994 and 1996 she lectured at Stanford Law School, teaching two semester-long courses on child abuse and neglect.

Prior to joining the Foundation, Ms. Larson was a partner in the Los Angeles law firm of O'Donnell and Gordon, specializing in civil litigation. During this time, she served on several national and state commissions, as well as nonprofit boards focused on issues concerning children and disabled persons. In 1988, Ms. Larson served as a special assistant and speechwriter for Robert D. Raven, then president of the American Bar Association.

Ms. Larson received her undergraduate degree from Stanford University and her law degree from Yale Law School. Upon graduation, she served as a law clerk to the Honorable Warren J. Ferguson, United States District Court, Central District of California.



### JACK W. LONDEN

Mr. Londen was born in Boulder, Colorado, in 1953. He received his A.B. degree from Harvard College in 1975, *magna cum laude*, and his J.D. degree from Yale Law School in 1978. He served as law clerk to the Honorable William W. Schwarzer, United States District Court for the Northern District of California, during 1979 and 1980. In 1980, Mr. Londen associated with Morrison & Foerster. He became a partner of the firm in 1984.

Mr. Londen's practice in general litigation has involved securities, patent, and antitrust cases and other complex commercial litigation, commercial arbitration, disputes regarding accounting and auditing standards and practices, banking and trust litigation, criminal cases in federal and state courts, and appellate practice. He has served as lead trial counsel in jury trials in patent, securities fraud, and antitrust cases. Over the past ten years he has served as lead or co-lead counsel on litigation matters for Goldman, Sachs & Company, Wells Fargo & Company, BankAmerica Corporation, Northern Telecom, Novell Inc., Arthur Andersen & Co., Tandem Computers, Target Therapeutics, and Acuson Corporation, among other clients.

Mr. Londen is a member of the bars of California and Arizona. He is the immediate past Co-Chair of the National Lawyers' Committee on Civil Rights Under Law, and its Regional Vice-Chair for the Western United States. He is the Vice-Chair of the California Commission on Access to Justice. He is the Chair of Californians for Legal Aid. He has served as a member of the American Bar Association's Standing Committee on Lawyers' Public Responsibility, its Consortium on Legal Services and the Public, and its Standing Committee on Legal Aid and Indigent Defendants, as well as the Board of Directors of the National

Legal Aid and Defenders Association. He served as Chair of the Legal Services Section of the State Bar of California, and Chair of the Legal Services Committee of the Bar Association of San Francisco. He is a member of the Board of Directors of the Legal Aid Society of San Francisco.

Mr. Londen has received awards for his public interest work, including the 1996 Loren Miller Legal Services Award from the State Bar of California, and awards from the National Legal Aid and Defenders Association, the Mexican American Legal Defense and Educational Fund, California Rural Legal Assistance, the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, the Western Center on Law and Poverty, the National Center for Youth Law, the Public Interest Clearinghouse, and the Bar Association of San Francisco.



### PRESTON MOORE

Mr. Moore was born in Lakeland, Florida, in 1949. He received his B.A. degree from DePauw University in 1971 and his J.D. degree from the University of Chicago Law School in 1974. He was Topics and Comment Editor of the *University of Chicago Law Review*. After receiving his degree, Mr. Moore served as law clerk to the Honorable Robert A. Ainsworth of the United States Court of Appeals for the Fifth Circuit. He became associated with Morrison & Foerster in 1975. In 1979, he associated with the Florida law firm of Holland & Knight and became a partner of Holland & Knight in 1980. He returned to Morrison & Foerster in 1982 and became a partner in the firm. In 2000, he became Of Counsel to the firm.

Mr. Moore is a member of the State Bar of California. He has been licensed to practice in Japan as a member of the Japan Federation of Bar Associations. He is a member of the Litigation Section and Patent, Trademark and Copyright Law Section of the American Bar Association, and a member of the American Intellectual Property Law Association. He has lectured and published for the American Management Association, Japan's Federation of Economic Organizations ("Keidanren"), the American Electronics Association, Waseda University, the Federation of German Industry ("Bundesverband der Deutschen Industrie E.V."), the Practising Law Institute, and the Licensing Executives Societies of Japan, the United Kingdom (Midlands), Germany, France, Switzerland, and Benelux.

Mr. Moore's practice has involved (1) intellectual property litigation, dispute resolution, and licensing; (2) all aspects of laws concerning competition and monopoly, including numerous antitrust engagements; and (3) litigation and counseling in the energy and telecommunications fields. His engagements have involved a wide range of industries, including computer software, energy, semiconductors and electronic devices, automated office equipment, biotechnology, medical devices and telecommunications. Representative clients have included Sanyo Electric, The Dow Chemical Company, Fujitsu Ltd., Northern Telecom, Minolta, SDL, Inc. (Spectra Diode Laboratories), Electro Medical Systems, Washington University and Angeion Corporation.

Since 1984, Mr. Moore's main area of emphasis has been intellectual property.

Mr. Moore has spent most of his twenty-four years in practice as a courtroom advocate. In recent years, he also has become active in pre-litigation dispute resolution processes, including the settlement of major patent infringement controversies through adversary licensing negotiations. He also has had extensive experience in alternative dispute resolution and international arbitrations.



### **PETER J. PFISTER**

Mr. Pfister received his A.B. degree in Economics and German from the University of California, Santa Barbara, in 1970, and studied in 1968-1969 at the Georg August University in Göttingen, Germany. He received his J.D. degree in 1973 from the Yale Law School. In 1974, Mr. Pfister worked as a law clerk for Judge Samuel Conti of the United States District Court for the Northern District of California. He associated with Morrison & Foerster in 1975, and became a partner of the firm in 1979.

Mr. Pfister served as Chairman of the Morrison & Foerster firm-wide Litigation Department from 1987 to 1990, and as the Managing Partner for Practice from 1990 to 1992. In this position, he worked closely with the Chairman of the firm and other managing partners and was responsible for coordinating all practice areas firmwide. Mr. Pfister served as Chairman of Morrison & Foerster from 1993 to 1996, and was responsible for all aspects of the firm's professional, strategic and financial decisions.

Mr. Pfister's litigation practice has included complex antitrust, securities, and intellectual property actions. His antitrust work has ranged from pretrial and trial of industry-wide price-fixing and monopolization cases to antitrust counseling, including advice regarding the Hart-Scott-Rodino premerger notification legislation and Justice Department merger guidelines. He has negotiated with both the Federal Trade Commission and the Department of Justice on complex mergers, and his antitrust work has included representation of companies and individuals in government grand jury proceedings and civil investigations, as well as in private treble damage actions.

Mr. Pfister's securities work has included defense of complex class actions, particularly involving technology companies, as well as SEC enforcement proceedings. He has represented companies, officers, directors and special committees of directors in matters involving a full range of disclosure and other business judgment issues.

Mr. Pfister's intellectual property experience includes work in federal courts and the International Trade Commission, as well as in European jurisdictions in association with

local counsel. The matters have involved patent and copyright issues relating to software, semiconductor and other computer technologies.

Mr. Pfister is a member of the Antitrust, Intellectual Property and Litigation Sections of the American Bar Association. In addition to antitrust, securities and intellectual property litigation, Mr. Pfister has had litigation experience in cases involving various aspects of banking, real estate fraud, government procurement fraud, construction, professional malpractice, and white collar crimes.



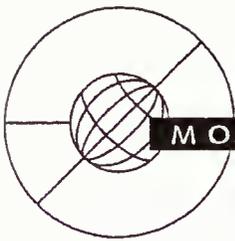
### PENELOPE A. PREVOLOS

Ms. Prevolos received her A.B. with greatest distinction from the University of California at Berkeley in 1976, where she was a member of Phi Beta Kappa and received the English Departmental Citation (outstanding graduate, English Department) and the University Medal (outstanding graduate). She received her J.D., cum laude, from Harvard Law School in 1979, where she was Executive Editor of the Harvard Civil Rights — Civil Liberties Law Review, 1978-1979. Ms. Prevolos was Clerk to Judge Charles M. Merrill of the United States Court of Appeals for the Ninth Circuit during 1979-1980. Ms. Prevolos became associated with Morrison & Foerster in 1980, and became a partner in 1985.

Ms. Prevolos served as Secretary (1993-1994) and Chair (1994-1995) of the Antitrust and Trade Regulation Section of the State Bar of California, and is co-chair of Morrison & Foerster's Antitrust and Trade Regulation Practice Group. She is a member of the Litigation and Antitrust Sections of the American Bar Association, and served from 1990-1993 on the Ninth Circuit Advisory Committee on Rules of Practice & Internal Operating Procedures. Ms. Prevolos is engaged in a litigation practice with emphasis on antitrust, false advertising and unfair trade practice litigation and counseling. Ms. Prevolos is a member of the Board of Directors of the San Francisco Neighborhood Legal Assistance Foundation.



## APPENDIX B


**ROBERT D. RAVEN**


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**BACKGROUND**

- Born in Cadillac, Michigan, 1923
- Married to Leslie Kay Erickson in 1947; children: Marta, Matt and Brett
- Aerial gunner, 5th Air Force (SWPA), U.S. Army Air Corps, 1942-1945
- University of California Law School at Berkeley, L.L.B. 1952 (Order of the Coif; Revising Editor, *California Law Review*)
- Michigan State University, A.B. (with Honors), 1949
- Senior of Counsel, Morrison & Foerster, San Francisco, California, 1994-present; Partner, 1956-1994; Associate, 1952-1956
- Chairman, Morrison & Foerster, 1974-1982

**AMERICAN BAR ASSOCIATION**

- President, 1988-1989; President-Elect, 1987-1988
- California State Delegate to House of Delegates, 1980-1987
- Delegate of the Bar Association of San Francisco to the House of Delegates, 1976-1978
- Chair, Standing Committee on Federal Judiciary, 1978-1980; Member, 1975-1980
- Chair, Standing Committee on Legal Aid and Indigent Defendants, 1981-1983
- Chair, Section of Dispute Resolution, 1993-1994
- Chair, Standing Committee on Dispute Resolution, 1991-1993
- Chair, House Committee on Credentials and Admission, 1981-1982
- Chair, Long Range Planning & Management Committee, 1987-1988

- Chair, Special Advisory Committee on International Activities, 1989-1990; Member, 1986-1988
- Chair, Committee on Trial of Antitrust Cases, Section on Litigation, 1975-1976
- Chair, Committee on Trade Regulation, Administrative Law Section, 1964-1965
- Chair, Subcommittee on Financial Markets and Institutions, Industry Regulation Committee, Section on Antitrust Law, 1976-1978
- Member, Select Committee of the House of Delegates, 1986-1987
- Member, Special Committee on Association Governance, 1983-1984
- Member, Consortium on Legal Services and the Public, 1981-1983 and 1991-1993
- Member, Sections on Administrative Law and Regulatory Practice, Antitrust Law, Litigation, Legal Education & Admissions to the Bar; and the Senior Lawyers Division
- Member, Advisory Committee of the Law Firm *Pro Bono* Project, 1991-present

#### **STATE BAR of CALIFORNIA**

- President, 1981
- Member, Board of Governors, 1978-1981
- Delegate, Conference of Delegates, 1964-1965, 1968-1972 and 1977
- Chair, Executive Committee of the Conference of Delegates, 1976-1977; Member, 1973-1977
- Chair, Special Committee on Trial and Appellate Court Reform, 1972-1976
- Chair, Special Committee on Practice of International Law In Japan, 1982-1987
- Member, Discovery Review Board for Northern California, 1964-1977
- Member, Board of Directors, National Housing Law Project, 1991-present
- Member, Commission on Foreign Legal Practice, 1991-present

#### **SAN FRANCISCO BAR and BAR-RELATED ACTIVITIES**

- President, Bar Association of San Francisco, 1971

- President, San Francisco Bar Association Foundation, 1977-1978
- Member, Board of Directors, 1964-1965
- Member, Committee on Judiciary, 1962-1964
- Member, Board of Directors, San Francisco Legal Aid Society, 1970-1972
- Co-Chair, San Francisco Lawyers' Committee for Urban Affairs, 1976-1978

**OTHER BAR and BAR-RELATED ACTIVITIES**

- Fellow, American College of Trial Lawyers, 1970-present; State Committee Chair for Northern California, 1978; Member, Complex Litigation Committee, 1991-present.
- Fellow, American Bar Foundation, 1971-present
- Fellow, International Academy of Trial Lawyers, 1987-present
- Chair, ADR Subcommittee of the ABA/SLD Committee on Delivery of Professional Services
- Vice-Chair, ALI-ABA Committee on Professional Education, 1988-1989
- Board of Directors, National Legal Aid and Defender Association, 1983-1987 and 1990-present; Member, Consortium for ABA National Equal Justice Library, 1990-present and Vice President, 1992
- Board of Directors, American Judicature Society, 1983-1987; Member, 1981-present; Member, Advisory Committee Elmo B. Hunter Citizens Center for Judicial Selection, 1991-present
- Board of Directors, American Arbitration Association, 1988-present; Member, Northern California Advisory Council; Member Advisory Committee, 1992-present; Member, Editorial Board Arbitration Journal, 1992-present; Member, National Large, Complex Cases Advisory Council, 1992-present
- Board of Directors, Western Justice Center Foundation, 1990-present
- Board of Directors, American Bar Endowment, 1990-present
- Board of Directors, California Supreme Court Historical Society, 1991-present
- Member, American Law Institute, 1960-present

## M O R R I S O N &amp; F O E R S T E R L L P

- Member, Executive Council, National Conference of Bar Presidents, 1983-1986
- Member, Advisory Committee, Advocates to Save Legal Services, 1980-present
- Member, Executive Committee, Lawyers' Committee for Civil Rights Under Law, 1976-present
- Member, National, San Francisco, and Los Angeles Panels, CPR Institute for Dispute Resolution, 1990-present; Member, Executive Committee; Member, Judicial Project Advisory Council, 1992-present; Member, Design Subcommittee for Court ADR Program
- Member, Advisory Council, Asia/Pacific Center, 1991-present; Arbitrator in International and U.S. Domestic Commercial Arbitrations, 1991-present
- Member, Advisory Board, World Arbitration and Mediation Report (WAMR), 1991-present
- Member, Consultative Commission of the World Intellectual Property Organization Arbitration Center, 1994-present

**INVOLVEMENT with JUDICIAL ADMINISTRATION**

- State Bar Member, Judicial Council of California, 1983-1987
- Board of Directors, Federal Judicial Center Foundation, 1991-present
- Board of Directors, U.S. District Court for the Northern District of California Historical Society
- Chair, Lawyers Delegate Committee to Judicial Conference of the Ninth Circuit, 1965; Member, 1962-1970
- Advisory Committee on Rules of Practice and Operating Procedures, United States Court of Appeals for the Ninth Circuit, 1983-1987; Chair, Subcommittee on Preparation of the Record, 1983-1987
- Advisory Board, Institute of Judicial Administration, Inc. and Center for Dispute Settlement, 1990-present
- Editorial Advisor, *JUSTICE*, U.S. Department of Justice, 1990-1991

**INVOLVEMENT with LEGAL EDUCATION**

- President, Boalt Hall Alumni Association, 1972-1973
- Member, Boalt Hall Review Committee, 1974
- Board of Councilors, University of Southern California Law Center, 1983-1987 and 1989-1993
- Board of Visitors, Hastings College of the Law, 1974-1977; Member, Advisory Council, 1989-1992
- Board of Visitors, Lewis and Clark Law School, 1974-1994.
- Board of Visitors, McGeorge School of Law, 1987-1994.

**OTHER ACTIVITIES**

- Mayor's Criminal Justice Council (San Francisco), 1971-1972
- President, Bay Area U.S.O., 1968-1970; Member of Board, 1964-1973
- President, Union Internationale des Avocats 1993 Congress
- Trustee, Berkeley Foundation, University of California, 1981-1984
- Northern California Committee, NAACP Legal Defense and Education Fund, 1974-present
- Northern California Committee, Mexican American Legal Defense and Educational Fund, 1977-1978
- Permanent Secretary, Standing Committee, Alexander F. Morrison Lectureship Foundation, 1970-1978
- Member, Lawyers Council, ACLU Foundation of Northern California (ACLU), 1990-present
- Member, Bill of Rights Celebration Council, Constitutional Rights Foundation of Los Angeles, 1990-1991
- Member, Emergency Committee to Save Habeas Corpus, 1991-present
- Member Chancery Club, 1991-present

**AWARDS**

- Boalt Hall Alumni Citation Award, 1983
- Mexican American Legal Defense and Educational Fund Annual Award of Merit, 1984
- California Rural Legal Assistance Foundation Legal Services Award, 1987
- State Bar of Hawaii Splintered Paddle Award from the State Bar of Hawaii, 1989
- American Arbitration Association Whitney North Seymour Award, 1989
- Anti-Defamation League of B'nai B'rith Distinguished Service Jurisprudence Award, 1989
- University of California Alumni Association Alumnus of the Year Award, 1989
- Greater New York Councils of the Boy Scouts of America Good Scout Award, 1990
- American Jewish Committee Judge Learned Hand Human Relations Award, 1995
- Alumnus of the Year, *California Law Review*, 1999
- Distinguished Service Award, "For his Inspired and Superb Leadership in the Establishment and Development of the Section and his Valuable Contribution to the Dispute Resolution Field," ABA, Section of Dispute Resolution, 2000.

## APPENDIX C

**ROBERT D. RAVEN****ADMISSIONS TO COURTS**

February 11, 1953	Admitted to California Bar (admitted to practice in all California courts, including U.S. Court of Appeals – Ninth Circuit)
May 15, 1961	Admitted to Supreme Court of the United States
September 21, 1964	Admitted to U.S. District Court, Central District of California
September 21, 1984	Admitted to Court of Appeals for the Federal Circuit
October 22, 1985	Admitted to U.S. Court of Appeals for the Eleventh Circuit

## APPENDIX D

**THE 380th  
T/SGT ROBERT D. RAVEN'S**

**and**

**T/SGT JOSEPH W. MALONEY'S  
REMINISCENCES  
OF THE "FLYING CIRCUS"**

**and**

**THE 5TH AIR FORCE**

**BASED ON VIDEOTAPED INTERVIEWS**

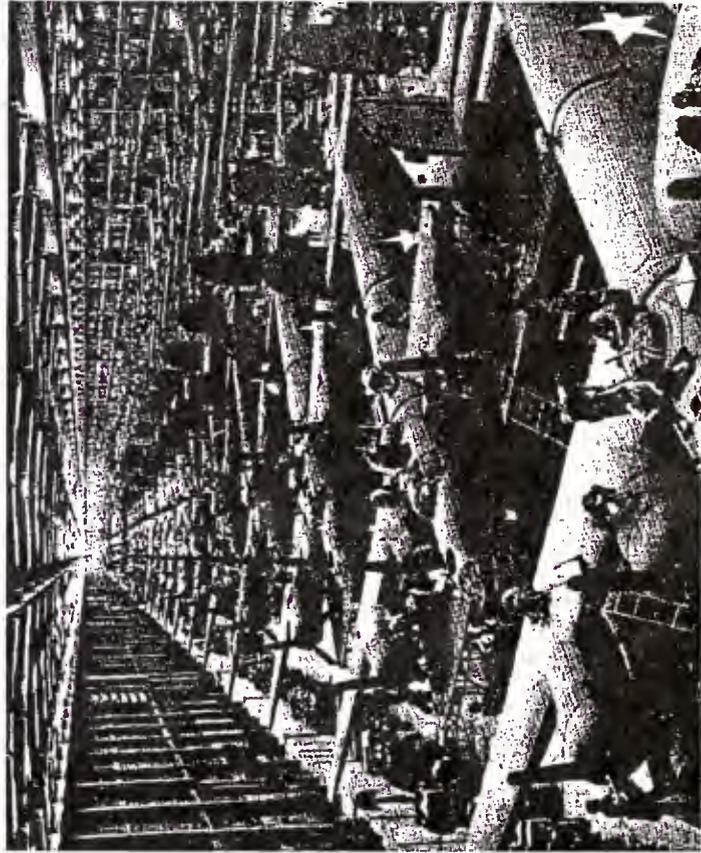
**BY WILLIAM ALSUP**

**and**

**ORAL HISTORY INTERVIEWS**

**BY EILEEN O'HARA**

**THE 380TH:  
T/SGT ROBERT D. RAVEN'S  
AND  
T/SGT JOSEPH W. MALONEY'S  
REMINISCENCES  
OF THE "FLYING CIRCUS"  
AND THE 5TH AIR FORCE**



*B-24 production line turning out a new plane every four hours. Photo: ad in Wall Street Journal, 7 March 1989.*

## ENLISTMENT

**RAVEN:** I enlisted very quickly. When I enlisted, I enlisted for an Air Corp cadet and they were just flooded, they were flooded. They couldn't bring us in at that time but I enlisted. And then I went down to work at Willow Run and they were making, they were just starting to make bombers down there and we were just starting. It was part of the Ford operation. Finally after 3 or 4 months, I was notified by the Army Air Corps that I should go to the San Antonio Air Corp base with a trainload of prospective Air Force Cadets from Michigan. I did so, but kept a low profile on the train because everyone else on the train seemed to have gone to ROTC [*Reserve Officer Training Corps*]. I didn't have any military training, but when I saw that Enos Slaughter [*pro baseball player for the Cardinals*] was on the train and not in uniform, I figured I was in good company. In short order, both Enos and I were "washed out." It was clear that there was not room for that many cadets at that time.

So I went to basic training somewhere near San Antonio, and then I went over to Weatherford, Oklahoma, to school. They sent me over to, it was a kind of normal school, and I became an advanced engine mechanic. Meanwhile, I was going to Oklahoma City hoping to get back into the cadet program, and they gave me an exam this time and I passed everything that time. So I was put on a waiting list. So when I got out of school I guess I went back down to Oklahoma, or some place, for some training. There they sent me out — and then I was on the waiting list to go back to the cadet program. This time I had passed the medical and everything else. I got shipped out of the district and that's what they did. I was in, what did they call it, the 9th District. They shipped me back to Fort Dix, New Jersey to work on a line. They were shipping all these planes overseas and I became a mechanic. I worked on the line. So once more I missed my chance to go into the Air Cadet program.

**ALSUP:** Where was that?

RAVEN: That was Fort Dix Airbase in New Jersey. I was there, God, I used to go up to New York and had a lot of fun, and so forth. But then I hurt my finger. I still have a scar there. You know, there's a double roll of cylinders on the B-24 and on some other planes, too. You'd reach behind there to get a spark plug out or something and I cut my finger badly and I got it infected. So I went over — they put me in the base hospital. I got to know the flight surgeon there very well. He said, "What the hell are you doing out there, you know, working on the line? Why aren't you in the Air Force?" I was still in the Air Force. He said, "Why — it's too late to become a pilot because the war will be over before you get through that." But he said "Why don't you go to gunnery school?" I said, "I'm too tall. I'm 6'2" and too tall." "Oh, hell," he said, "I can get you a waiver. I can have you in Tyndall Field [*Panama City*], Florida in six days." I said "if you can do it, you do it." In six days I was in Tyndall Field, Florida, going to gunnery school.



Robert D. Raven, Hamilton Field, November 1944

## THE CREW

RAVEN: After completing my course at Tyndall Field, I met my crew in California. We flew out of March Field — a beautiful big old field down by L.A. At our first meeting our pilot, a great great man, older — he was 26.

ALSUP: That was Wehrly?

MALONEY: Wehrly.

RAVEN: He'd been a first lieutenant in the infantry.

MALONEY: Right. Lt. Wehrly. You liked him, but you respected him. He said "I want to meet the crew in the plane after our instructions." The ten of us were in the bomb bay of this B-24 and he said, "Have you all met everybody? I just want to say a couple of things to you." He said, "We're going to go overseas. I know that you fellows are going to do a good job, whatever you do. And we're gonna work as a crew. And I expect everybody to do their job well, because I won't take anything less. You do your job well and we all get along together, I promise you I'll get you home." Pretty good, wasn't it?

RAVEN: Yes, I'd forgotten that.

MALONEY: You just didn't fool with Lt. Wehrly. That's the way it was. We all respected him. You could talk to him very easily. But you knew that you better not foul up. You do your job and you'd be fine.

RAVEN: We flew out in the desert. They had these shanties down there. And then we would drop bombs, we would actually drop bombs. Our bombardier was just the scourge of the United States. He could knock those shanties out of the desert like Hell.



TOP l-r: Bill Wehrly, Richard Zapf, Dean Waddell, Miles Fetterman. BOTTOM: Bob Raven, Joe Maloney, Reid Miller, Don Whetstine, Hank Kaminsky, Otto Mills. October 1944.

**MALONEY:** On our left here is Lt. Wehrly, who was the pilot, and as I said, he was the one originally from Farmington, Michigan, the old man of the crew, 26 years old. This is Richard Zapf, he's from Florida, an attorney. He was originally from Ohio. Dean Waddell, navigator, originally from Greenfield, Ohio, now living in Florida. He was the navigator — a good one too. Miles Fetterman, who has since deceased, was the bombardier. He was from Pennsylvania. This distinguished looking man to the left was our engineer-gunner, Robert Raven, who is living in Lafayette, California. Joe Maloney was the radio operator-gunner, who was born and raised in San Francisco and still lives in San Francisco. Reid Miller, who was from Bountiful, Utah, and he was a tail gunner. Don Whetstine was the armorer-gunner. He was from Bartersville, Oklahoma. And he is deceased. Hank Kaminsky was from Hamtramack, Michigan, really a great fellow. He is deceased — he was the upper turret gunner. And Otto Mills was the nose gunner. He is the mayor of Snowflake, Arizona, right now. So that was our ten good men.

**RAVEN:** After training at March Field, we were then sent to Hamilton Field near San Francisco, to prepare to be shipped overseas. Yeah, we had to fall in every morning and then, if you weren't going to be shipped out that day we'd take off for San Francisco. Joe Maloney, the radio operator, lived there. His dad owned a drug store right on the square, you know, Union Square. They had us all over one night. We had a wonderful time.

**RAVEN:** Your Dad had a lot of good liquor around.

**MALONEY:** My Dad served a few rounds of drinks and my co-pilot said "Boy, that was good Scotch. What was it?" He says "It's *Johnny Walker*." My Dad said "You like it?" "Oh, that's my favorite." "Well, wait a minute." So he went back and he gave the co-pilot a pint of *Johnny Walker* to take with him. He kept it with him until he got overseas. I guess he was nipping on it the whole time.



l-r Bob Raven, Hank Kaminsky, Joe Maloney, March Field, 1944.

**RAVEN:** I remember his aunt, Joe's aunt, told my fortune. She said "You are going to be a very very wealthy person, very very very late in life."

they assign you to a station or a bomb group that needs replacements. So, maybe out of the 12 crews that went over at the time that we did, Bob, a number of them went to the 90<sup>th</sup> Bomb Group which was called the *Jolly Rogers*. Some went to the 22<sup>nd</sup> Bomb Group which was the *Red Raiders*. And Bob and I were assigned to the 380<sup>th</sup> Bombardment Group which was the *Flying Circus*.

ALSUP: How did it get the name *Flying Circus*!

MALONEY: That goes back to when it originated in Tucson, Arizona, and they're putting us all together and they were getting rag-tag fellows who knew how to fix airplanes, but they had really no military decorum, so to speak. They just went around doing crazy things and the pilots would land at high speeds when they shouldn't be doing it. The General that inspected the group said "I've never seen such a bunch of clowns in my life." And it got around to the base and they said "Well, they call us a bunch of clowns, so why don't we call ourselves the *Flying Circus*?" So that's how it came about.



Joe Maloney, Hamilton Field, November 1944



Enlisted Crew Members: TOP l-r: Don Whelstine, Joe Maloney, Bob Raven. BOTTOM: Reid Miller, Otto Mills, Hank Kaminski.

MALONEY: I know we were worried about just getting home from overseas. It was really quite an evening and the next day, our orders came that we were going to leave shortly and that following night we took off. We left Hamilton Field on November 26, 1944 at 3:00am. We left with sealed orders that were not to be opened until we reached our destination. Remember that Bob?

RAVEN: I do. You squealed on him already, but you go ahead.

MALONEY: We got over the Cliff House, here in San Francisco, I looked out — I remember because I had taken my bride-to-be, Betty, out there to dinner a week or two before. And I looked over at my friend Otto Mills and he had opened up these sealed orders. He said "Do you know where we're going? We're going to Biak!" I said "You're not supposed to open those up until we get there. It's a secret." "Who's going to tell anybody now? We're up in the air and we're not going back." So we were sent to Biak — all trained and ready to go with a number of crews. What they do is

and luckily the lieutenant had a gun right by his hand and he shot him. I remember that so well. Then we went from Biak, we went out to Nadzab, New Guinea.

ALSUP: So you were stationed in Darwin, Australia?

RAVEN: Yes. [arrived 1/5/45]

ALSUP: For how long?

RAVEN: Well, it was probably about two months [left 3/5/45], because everything was popping then. That's when they were — plans, we didn't know about that, of course, — but they were planning for the Philippines, and so forth and so on. And in fact, we went out and saw the fleet but we couldn't figure out what the hell it was. Well, that was later on. But in any event, we were there and having a good time. First night we had Aussie beer — you know, bottles like this [indicating large size]. At any rate, two bottles of that and you thought you could fly. That was a ration they'd give you from time to time. We lived in a tent. Six of us in the tent. The enlisted men lived over on the other side from the officers' quarters.

ALSUP: When you say the six of you in a tent, was that the six of you who were in the crew?

RAVEN: Right. The officers had their own tent.

ALSUP: The officers had their own tent, but you six had your own tent? Was there a mission every day, or once a week? How frequently?

RAVEN: There were a lot of them going out. But none of the new crews went on any the missions that were going out of there. They had some funny jobs. There was a lead mine, or something like that, over on one of those islands out there. They would send a



Enlisted Men's Quarters. Murtha Field, San Jose, Mindoro, Philippines. 1945.

## CAMP

MALONEY: We went to Hawaii, Canton Island, Guadalcanal, and we ended up on this island of Biak on November 28, 1944.

RAVEN: We landed in Biak, New Guinea. Which, as I told you, was under attack at that time and the infantry was there. I told you about the Japanese guy cutting a hole in the tent ...

ALSUP: Tell us that again.

RAVEN: Well, we were there in Biak. That first night we all went to the movies. You know, I mean it wasn't any big theater. It was out in the jungle and you put up a screens. We left the movies and came back and found the camp was all excited because a lieutenant had been in there and was writing a letter to his wife in his tent — they had tents — I guess we all had tents, too — and he heard a noise and saw a knife coming in through the canvas. It was a Japanese soldier. He stepped through there naked with his knife

plane over there every night and they would have some bombs. But they wouldn't drop the bombs much because the idea was to keep the people up all night. We had a lot of empty Aussie beer bottles with razor blades in the neck. They kept these people — kept these people awake, kept them tired all night.

ALSUP: You mean your group was flying over Japanese territory and dropping beer bottles and they were empty?

RAVEN: Yeah, but they had razor blades at the throat. The people thought it was bombs, and then every once in a while they would drop a bomb. They didn't want to drop all the bombs at once. They'd go over there and fly around for three or four hours — one plane — just keep them awake. The idea was to keep these people awake.

ALSUP: And your next base was where?

MALONEY: On the island of Mindoro, which is approximately four or five hundred miles south of Manila.

ALSUP: When did you move there?

MALONEY: On March 5, 1945.

ALSUP: And then from there you flew combat missions?

MALONEY: Correct. We flew 32 combat missions.

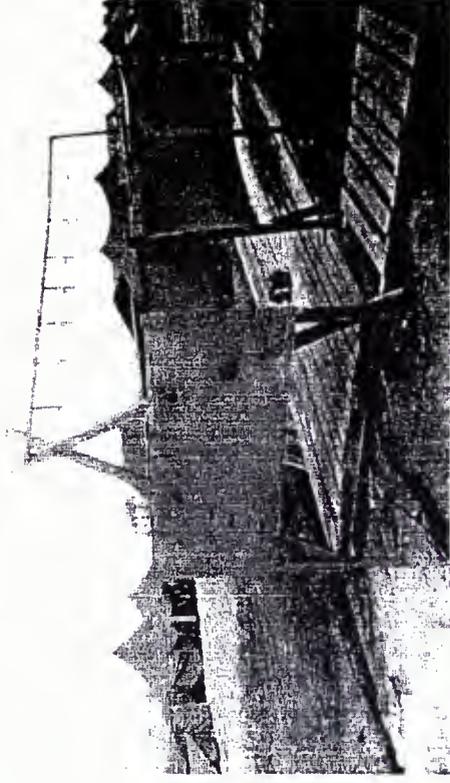
ALSUP: So the vast majority of your combat missions were flown from Murtha Field to various targets.

MALONEY: Correct. Yes. This is a shower in the camp in Mindoro. The water wasn't too plentiful and it just was pretty crude. The tents were pretty crude, too. Though we did have a

houseboy who did our laundry, and everything, which was pretty good. Our pilot and the other officers didn't have this perk.

RAVEN: They were jealous as hell.

MALONEY: They really got upset about it. But we had our little houseboy who came in and did all our laundry. And I said, one day, I said getting up out of bed, we had the mosquito nets and everything, I said, "All this dirt and everything and bugs on the floor." I said, "I sure would like to have a floor." Bob said, "What do you have in mind?" I said, "Well, there's a ping pong table up at the headquarters at the officers' place. I don't see anybody ever playing ping pong. So we went out and just took that ping pong table and made a floor out of it. Bob was all enthused about it, although today he might deny it. But the two of us went up and Bob got on one end and I got on the other and we got this ping pong table. We sawed the legs off and we were in business.



*Shower Area, Murtha Field, San Jose, Mindoro, Philippines. 1945*

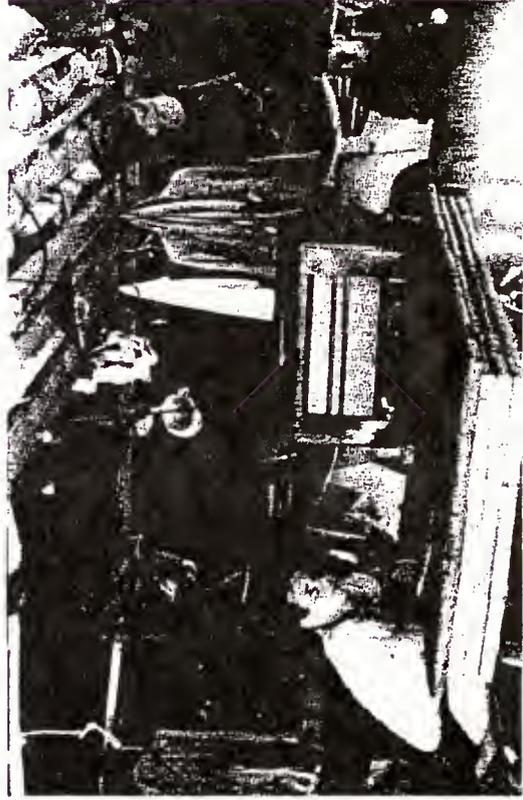
RAVEN: We didn't think of it at the time. It would fit under your cot. It would take, you know, it would be under two of your three sets of legs on the cot — one in the middle and one on each end.

Then, when we nearly got in trouble was when we had — I think the only inspection we ever had on Mindoro was when Colonel Forrest L. Brissey was coming around. He probably had, I'm sure, fifteen officers with him. They were walking through the camp looking at tents. They stopped at our tent and looked for quite a while, pointedly, in fact. But I don't know what they saw, or what they thought they saw. Then they went on up our road, about five tents down from us, see. They turned around, just the Colonel and about three or four of his guys came back. They looked again. But again, never said anything. So I don't know what that means, or maybe they thought that if these guys were this disingenuous we ought to leave them alone. Or maybe they thought this looks familiar. At any rate, we had our floor until we left the island.

ALSUP: And you still have six people in the tent?

RAVEN: Six people in the tent.

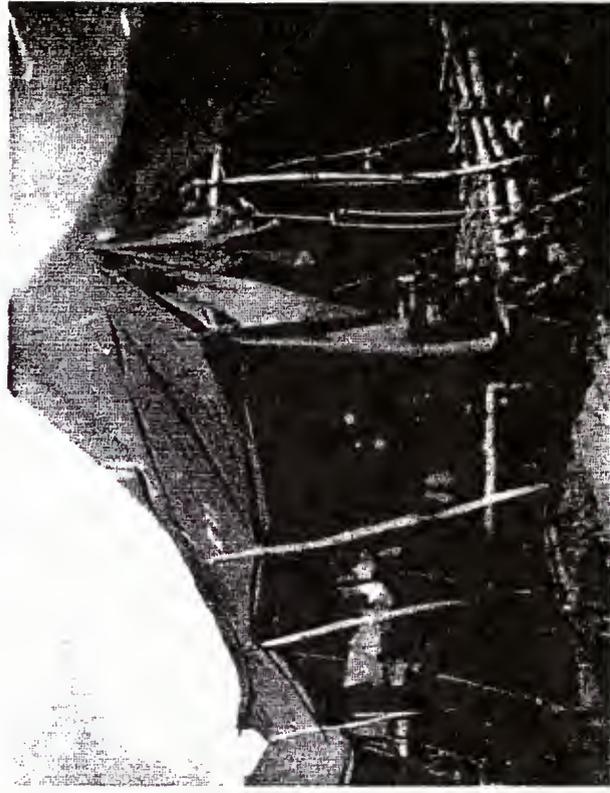
ALSUP: What did you tell the other four guys as to where you got your floor?



*l-r. Joe Maloney, the radio, Bob Raven.*

RAVEN: Oh, I'm sure we had some story.

RAVEN: We also had another thing going, they never caught on. We had a radio that Joe got in Adelaide. Maybe it wasn't Adelaide, could have bought it in Darwin. And, of course, no one among the enlisted men had electric power during the day. And we said, "How the Hell are we going to play this thing?" So, we put it right next to the center tent pole on a table, we had a line running down and we dug underneath the tent.



*The tent Maloney and Raven shared with four other members of their crew.*

RAVEN: Then we went back in the middle of the night one night and we dug across the road to Group Headquarters. We knew a guy in one of the tents up there who was part of the staff, part of headquarters. So we plugged in there. Guys would come by and say "Gee, you guys have a radio! How do you keep your batteries charged up?" We'd say "Oh, we just keep changing them. We take care of it."

MALONEY: And we're telling stories like they do every year [*at reunions*]. At a reunion I attended some years ago, I was conversing with Ollie Myrhum, telling stories, and I asked Ollie if he remembered the night about twelve or one o'clock in the morning when some crazy fools shot a 50 caliber machine gun off in the camp and everybody was ducking under their beds scared to death? Disrupted the whole camp — scared everybody half to death?" Well, they said that they had heard that there were some Japanese stragglers in the area around the camp in that jungle. And they wanted somebody to go out on the point, they called it, with a 50 caliber machine gun. And so Ollie and that crew chief...

RAVEN: Yes, Chief Murdock.

MALONEY: They went up there and I guess they got some "firewater" when they were up guarding the camp with this gun. So, about midnight they had more firewater than they should have. Ollie thought he heard a rustling in the bush. And the chief says "This may be it!" and he says "I'm ready for 'em." And he loaded up this 50 caliber and he said "If that bush rustles once more, that's the end. I'm sure I can get him." And the bush rustled and Ollie opened up with his 50 caliber machine gun and he never took his finger off the trigger. He was firing into those bushes. Meanwhile, everybody in camp was scared stiff, they thought they were being invaded. People were actually under their cots, scared to death. The next morning, they went down and they found this poor carabao [*water buffalo*] with about 240 holes in it. We said it looked like a salt & pepper shaker, the poor animal. But that's what the rustling in the bush. If they ever would have caught Ollie, he'd still be over there doing KP. That's one of Ollie's stories.

ALSUP: Walk us step-by-step through what a typical day would have been.

RAVEN: Well, we'd go down to the beach — there were trucks going up and down the hill all the time — it wasn't too far from our area down to a wonderful beach. We'd go down to the beach. They had a lot of cock fighting. There was a little town there, San Jose, and they had cock fights all the time. That's a big thing, you know, in the Philippines. We would do things like that, or we would go walking and things like that, or we would just go play cards — sleep.

ALSUP: Did you ever get days off?

RAVEN: Well, we were off every day we didn't fly. I mean, technically, we didn't do anything other than take a shower and go to the mess halls and do these other things. We'd go down to the beach.



B-24 En Route

## MISSIONS

**ALSUP:** On the day that you were going to do a mission — these missions would be ten or twelve hours long?

**RAVEN:** Yes, they'd get you up early in the morning, anywhere from 2:00am to 4:00am. You'd have breakfast very early and be over in the briefing room. The briefing officers would get up there and they would brief us. "OK, here.." and they would tap on the maps they had put up on the walls. "Today, you're going to Balikpapan, Borneo."

**ALSUP:** During the briefing in the morning, was it dark outside?

**RAVEN:** Yes. It was very early in the morning, any time between two and four a.m.

**ALSUP:** So you get told what your mission was going to be.

**RAVEN:** They'd load you on the truck leaving those sessions, and then the truck would get you to the planes. We'd had breakfast already.

**ALSUP:** Somebody already loaded the planes with the bombs ...?

**RAVEN:** The bombs were already on. It was my job to check that.

**ALSUP:** Once you become airborne and you've got this ten- to twelve-hour mission in front of you. What was your next job?

**RAVEN:** Well, you know, if we had a long mission, at some point I would have to transfer fuel out of these tanks we had in the bomb bay. I would have to transfer fuel out of the bomb bay tanks into the wing tanks. Intelligence officers, would catch us as we came in, if we had any questions. Yes, the same guys that briefed us in the morning — you might want to have some questions and answers.



*"Bombs over Balikpapan." Painting by Gene Lysaker / 530th Squadron. Planes are: Fyrtle Myrtle, SNAFU, Juarez Whistle, and Shady Lady.*

**ALSUP:** Did any of these planes ever take reconnaissance photographs?

**RAVEN:** Oh, we had reconnaissance people on board from time to time. Lead planes, they always had them .

**MALONEY:** When we were at Nadzab, New Guinea [December 20, 1944], our crew got its first indoctrination about what a combat mission would be like, although they didn't expect anything really devastating to happen because most of the Japanese had left. But we flew our first mission up to Wewak, which is up in this area [points to map] up here. I recall some jetties for boats and everything — and that was our first mission.



ALSUP: To bomb the jetties?

MALONEY: To bomb the jetties up there. The mission that really comes to my mind, Bob, is Kirun docks [May 19, 1945, flying the plane nicknamed "Miss Hap" from Mindoro, Philippines] on the northern part of Formosa, now known as Taiwan. They had a big naval shipyard there and it was heavily fortified — just a lot of guns. Our pilot was being groomed to be an operations officer and so our co-pilot was grounded for this mission in order to let another operations officer fly with our pilot to see how he would lead the group on this mission. And so we got up to Kirun docks, which was, as I said, heavily fortified, and I guess we just started to turn in to go into our final run and they just hit us real good.

ALSUP: They hit you real good with...

MALONEY: The flak. The ack-ack. And back in the waist where I was, there is a little trap door and I admit it, I heard that and I knew it was for us and I opened up that door and was ready to bail out. I don't know where you were, Bob.

RAVEN: The pilot wanted me to stay up in front at that time because he wanted me to be sure — sometimes the bomb bay doors wouldn't go up properly. He said, "Bob, you go down there to test that once in a while, to be sure." I was right in front of the bomb bay, I was down below the deck. Upper turret's up above me and the radio operator was over there. We stayed on the run for quite a while and boy! we got hellish flak underneath us. In fact, one hit — I was not wearing my parachute harness, I had taken my parachute harness off and one came right up through it. But the co-pilot, the major who was checking my pilot out, got hit right here [indicates groin] an inch and a half from the family jewels.



Bombing Mission over Kirun Docks, Formosa, May 19, 1945

MALONEY: The damage done to our plane was extensive. The co-pilot, the operations officer, was wounded. Our hydraulic system was shot out. There was no way that we could ever land that thing with the wheels down unless Bob could do something with it. And — not because Bob is here — I'm just telling you the truth — he should have got a medal for what he did because he really saved the crew that day because he fixed that hydraulic system with either rubber bands or paper clips or something, but he got the thing working.

RAVEN: It had lost a lot of fluid.

MALONEY: Along these same lines, you're going to be sorry you asked me about this, because I could keep going — Being a nose gunner, our friend from Snowflake, the turrets are operated by electrical power and a hydraulic system which was shot out. So he couldn't get out of his turret. So, he was stuck right out there in the front of nowhere and all of a sudden, this hydraulic fluid started dripping down on his head and the poor fellow that was wounded — the blood started coming down with this fluid into his turret. And he couldn't get out of the turret because the hydraulic system was broken. But they had a manual crank and he talked to me about this when I visited with him. He said, "Joe, you never saw me crank — I could have cranked about ten cars getting' out of that thing because I had no idea of what was happening up there. I didn't know if the pilot was shot, or whatever. He did get out and Bob fixed the hydraulic system. The wounded co-pilot, the operations officer, was hurt pretty bad. He was hit in the femoral artery, which could be very dangerous.

ALSUP: Tell us how Bob fixed that hydraulic system.

MALONEY: Well, Bob, you could maybe tell me how you did it.

RAVEN: Well, at first, we tried to wrap it. In other words, there was a pipe like this that went back when the wheels came down — and that would trigger something in there and lock it. So first, we had quite a little fluid on board, which was lucky. We put some of that in there and I wrapped it with a cloth that I found in there. And it didn't work very well. But it kept leaking out. So, we talked to Wehrly and we decided not to put in any more until we got back and just about ready to get the wheels down. So, that's what we did. So just before we got to Clark, we put the fluid in again and wrapped it again, knowing that it would seep through, and so forth. But then I went back into the waist to watch the wheels come down and lock. They came down and locked, just a little while — we held it right up until we were about on our approach. They never flew that plane again, it was so shot up.



Bob Raven, center. The man at the front left and the two men on the right later died in combat.

ALSUP: I'm going to read from your diary. You brought in your diary, Joe.

MALONEY: Remember that I was 19 years old, now, Bill.

ALSUP: I understand. This is dated May 19, 1945. It says:

*Roughest mission yet! Wehrly called up the cats and jukeboxes and said "We've been hit. Rollins is wounded. Our hydraulic system is shot out and this son of a gun" is liable to blow up any minute.*

ALSUP: Now, is that a message you sent on the radio, or did he send that message?

MALONEY: He sent the message. He was instructing the crew.

ALSUP: *[continuing from diary]*

*Meanwhile, we made a steep diving turn and kept on diving. We must have been indicating well over 225.*

ALSUP: Was that 225 miles an hour?

MALONEY: Well my NCOIC<sup>1</sup> in charge could answer that better. That's pretty fast, right, Bob?

RAVEN: Yes, that's pretty fast for a B-24.

MALONEY: On May 29th [1945], we took off with 3100 and frags and headed for our nemesis, Kirun Docks. The target was closed in by bad weather, so we headed for our secondary target, Takao, Formosa. Whenever we went on combat missions, the crew was given a huge cardboard box of special rations, like canned Spam and bars of chocolate. We all looked forward to eating these

with great anticipation, especially since the food wasn't that great in the mess hall.

RAVEN: We would store the box in the belly gun area. It was a Plexiglas ball on the bottom of the plane which was outfitted with two guns. We never used it because we rarely had fighters after us, and because we flew so low, no planes ever came up at us from below.

MALONEY: On that day, we turned in toward the target area and a direct burst of flak hit us, right where we had stored our precious food rations.

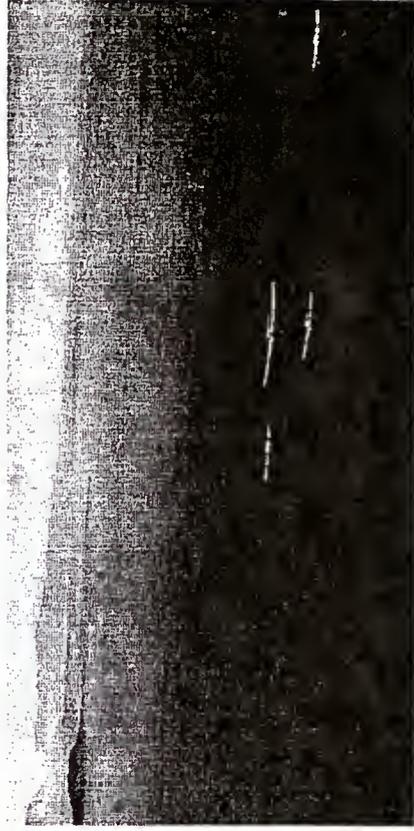
RAVEN: Groceries all over the plane! I never saw Joe so mad.

MALONEY: I'm still mad about it!

ALSUP: In your diary you have an entry for June 12, 1945:

*Target Saigon, French Indochina. We were flying in the slot.*

ALSUP: Do you remember that mission?



B-24s in "loose" formation.

<sup>1</sup> "Non-Commissioned Officer in Charge." Bob's nickname for himself.



Map from King of the Heavies: 380th Bomb Group, 1942-1945. by Glenn R. Horton, Jr. and Gary L. Horton. 1983. p.81.

MALONEY: Yes.

ALSUP: Tell us about that mission.

MALONEY: Four planes. A lead plane, one on the right, one on the left and the one underneath the lead plane was called "the slot." We were in the slot. We were to hit some railroad yards in Saigon. Bob actually had a better view of this...

RAVEN: Rollins was not on the mission. His co-pilot had taken over as pilot and they were flying off our right wing. The got up over the new airport. It was a mistake. I don't know why they went that way. They laid a barrage right under their right wing. We were in the slot at the back part of the group. When we last saw them — we saw black smoke — they put it up under their right wing. And then they were pulling away from us and they went into cloud cover.

MALONEY: He called up on the earphones, the command to the other pilots, and he said that he was doing OK and he was going to head away from the target. Then they got another hit. Right, Bob?

RAVEN: Yes. We had released our bombs.

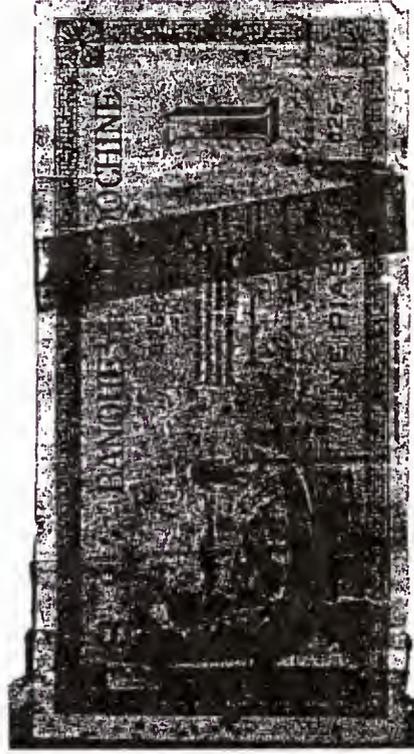
MALONEY: Yes, we had released our bombs, but he was hit in the number three engine, which would be on the right hand side. He started to go down. As he went down — we lost him through the clouds. The lead ship was a Lieutenant Hartman, and the radio operator, who I am still friendly with at the reunions, his name is Calvin Shaad, immediately sent back the report, "A plane has gone down over Saigon." They were going to go down and see if there were any survivors or if anybody got out. Which they did. But by the time they down through the clouds, and everything, the plane had crashed and exploded. There was no sign of life. Ten men ... But, unbeknownst to us, the squadron behind us and another crew coming in saw two parachutes get out at the last minute, a Sergeant

Di Maria and a Sergeant Nicks. They were both in the waist, so they probably used that door I described to you earlier that you could get out of easily.

They got out and they were captured 40 miles north of Saigon, which is Ho Chi Minh City now. They were captured and interrogated. They were taken out and beheaded — just like that! I found that out years later through a friend of mine who knew Sgt. DiMaria. He was on his crew. He said that it was in the newspaper — he was from Chicago, so that was the *Chicago Tribune* — I have a copy of it here someplace — mentioned that two Yank airmen were beheaded and they found out that the warrant officer was responsible for it.

RAVEN: He beheaded them.

MALONEY: He himself was captured by the Australians, later on during the war, when we took over Saigon, and they took him to Singapore. They tried him and executed him for this dastardly deed.



One Piastre Note from French Indo-China (Vietnam).

ALSUP: Now, when it went down, it was ack-ack that got him?

MALONEY: Yes.

ALSUP: What about other missions?

MALONEY: On July 12, 1945, we were temporarily assigned to the 22nd Bomb Group, 19th Squadron [*Red Raiders*] to fly night reconnaissance out of Clark Field, Manila. We flew up to Mako in the Pescadores, and released our bombs. We encountered some flak and then proceeded on to Wenchow, China. Our radar operator spotted four blips, which he assumed were enemy fighters heading toward us. Some of us opened fire, but thank goodness nothing developed from this close encounter. Two days later, We took off again, around midnight, and headed for Mako and Wenchow. It was an uneventful mission for the most part. At one point, though, Bob and I had to throw tinfoil out the waist door.

ALSUP: Tinfoil?

RAVEN: Well, not exactly. We would get these big sheets of aluminum foil, folded up in big boxes. We were supposed to throw these sheets of foil out of the plane because the foil was supposed to confuse the enemy radar. They would think there were more planes in the air than there really were and would shoot at the foil instead of us.

MALONEY: Anyway, there we are, throwing this stuff out the waist door and suddenly, we were blinded by searchlights. Our whole plane was lit up and we were shocked out of our wits. Bob casually stated that we could be flying over Grauman's Chinese Theater [*Hollywood, CA*] for a movie premier. But we got out of it OK.



*Mission over Formosa, 1945.*

**ALSUP:** Now, how frequently did you encounter fighter planes?

**MALONEY:** Not too often. By that stage of the war, the Japanese had lost most of their good pilots earlier in the war and they just didn't have that many good pilots, or planes, because between the Navy and the Air Force, they really did a good job on them. The only bad part about the enemy at that time and later on, is what we'll probably talk about Okinawa, were the *kamikaze* planes. A lot of our missions up to Formosa were aimed at airfields, and strips, and hangars, and anything that had anything to do with

enemy planes. Because someone in intelligence knew that the Battle of Okinawa was going to be a tough battle for the Marines, and the Navy and Army, because of these *kamikaze* planes. The Japanese just took young kids — they taught them how to take off in the plane — and that's all. They didn't expect them to land or do anything. They were going to die in the war.



*Looking down after releasing bombs.*

**RAVEN:** See they had moved most of those planes back because they were going to do that. The Japanese pilots only had enough fuel to get to Okinawa. See, they were crashing into those ships. I think it was all planned pretty carefully.

**MALONEY:** I guess it was, Bob, the way they had the pilots — to answer your questions, Bill, about pilots. There was a real shortage towards the end. So, they — to answer your original question, we were bothered mostly by ack-ack, than by fighter planes at that stage of the war.

**RAVEN:** And was very good ack-ack — this Formosa was noted as having the best people.

**MALONEY:** They were good shooters.

**ALSUP:** When the first of these bombs was dropped, what news did you receive, if any, about the dropping of the first atomic bomb?

**MALONEY:** We were in the tent in Mindoro and somebody said “Gee, they dropped a big bomb.” I had no idea what they were talking about. I just couldn’t visualize it. You know, we were talking about our little 2,000 lb which we thought were huge. I didn’t think they would do much damage. It’s a shame that we had to do it. But if we hadn’t done it, there would have been over a million American casualties.

**ALSUP:** Your next base was to go to Okinawa.

**MALONEY:** Right.

**ALSUP:** That was on August 15, 1945. When was it that you

heard that Japan was surrendering, or had surrendered, or might be going to surrender.



*“Beautiful Betsy” We were the last crew to fly her safely before she disappeared on February 18, 1945. (Wreckage found 1994)*

**RAVEN:** Well, I wouldn’t have remembered it, other than to look at notes a while back. It was on the same day that we went up to Okinawa. Which was — we saw it just a minute ago.

**ALSUP:** August 15th.

**RAVEN:** August 15th. It was the same day we left Mindoro for Okinawa.

**ALSUP:** Did you ever fly over Japan?

**RAVEN:** We did.

**ALSUP:** Tell us about that.

**RAVEN:** On August 25th, they had three heavy groups — there was our group, the *Flying Circus the 380th*; the *Jolly Rogers*, I think, the 90th, were involved too, and maybe there was another B-24 group. We left Okinawa and we flew up to Hiroshima first. We looked it over. It was amazing, you know, it was flat. Except one bridge over the river and all the rest of it was gone. There was one little church, right down by the river. But other than that, it was

flat. I guess there was one other building standing, or something like that. And then we turned left and we went right on over to Nagasaki. While we did that, you know, one thing we observed — there was nothing moving. We flew over a good part of Japan at that point. We went over to Nagasaki, over on the west side.

MALONEY: We weren't exactly sure what we were going to face, because after all this turmoil and everything, everybody was very nervous. So we did have a full bomb load and had our guns at the ready. They were going to send B-29s, but some wise person decided the B-29s are out of it because of the damage they did over in Japan. They didn't want to start any worrisome problems about B-29s, that they'd be coming over to bomb again. So, they sent a group of B-24s over Japan to just I guess — what was that? Just to scout, Bob?



"Battle Weary" B-24 Liberator

RAVEN: You see the Emperor — I think they knew at that time that even though the Emperor was surrendering, that they had all these generals who later killed themselves, who were fighting. And so everything was pretty much up in the air. I think, as you said, they didn't want to send the 29s up there to get everyone riled up. So they sent us to see what would happen.

MALONEY: The first bomb on Hiroshima was dropped and the Emperor, wisely, said to his warlords, "This is it. I mean we can't possibly do anything now. We're going to lose." And the warlords would not give in. They just were headstrong and that's why we had to drop another bomb on Nagasaki, because they wouldn't surrender. And when they dropped the other one, they did surrender. But getting back to your question, our thing was just to fly over and, like Bob said, to feel them out and see if anybody would dare shoot at us, or what. I don't know Bob's recollection, but I know that as we flew into Hiroshima, it was just a sight I'll never forget. It would be like looking at this table, and then right in the middle of the table was one building that was standing, that I recall, Bob. And the rest of it was just as flat as this table.

RAVEN: And there was that church down by the river. Remember that?

MALONEY: And there was a church down by the river over here [indicating relative position on imaginary map], but nothing else. It was awesome.

ALSUP: Joe, your diary says:

*August 25, 1945. 32nd Mission. Flew in armed patrol over Japan. We flew over the two cities that were hit with the atomic bomb (Nagasaki and Hiroshima). Not one shot was fired at us from the air or ground. 8 hours, 30 minutes.*

ALSUP: That was that flight?

RAVEN: Yes. I remember we looked down and we never saw a car or a truck on the road.

MALONEY: No, it was pretty quiet.

ALSUP: How did you come by that [*indicating artifacts on table*], and what is it?

MALONEY: Actually, you know, as Bob said, selling the *short snorters* [*nickname for foreign currency*] was started by the Australians. Whatever country you visited, or had something to do with, either flying over it, or whatever, you'd pick up a *short snorter* and then you'd have your friends autograph it for you. For example, this would be from the Netherlands East Indies. This is from Australia. The Japanese, when they invaded their different countries, like, for instance, the Philippines, they had the Japanese government Five Pesos, which they would use as money in the Philippines. You'll notice here that the Japanese government printed up \$1 bills which could be used in Hawaii or America, which might have been their plan — that this was the money they were going to use when they invaded the United States or Hawaii.



*Japanese Government dollar bill.*

ALSUP: Where did you get this \$1.00 bill?

RAVEN: From Aussies, I'm sure.

MALONEY: Probably some Australian got it and the Japanese — as history will tell you — intended to go back to Pearl Harbor after

Midway. But they didn't expect to encounter those brave men at Midway. Those Navy fellows just — they really got them, and they had to change their whole plan. They lost, you know, three carriers and all that, so that took care of the invasion of Pearl Harbor. Otherwise, they would have been using this dollar to buy a Coke or something.



*Five Peso note printed by the Japanese Government to use when they took over the Philippines.*



*Ten Guilder note to be used by the Japanese Government in Indonesia.*

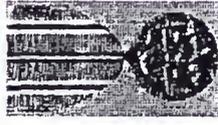
ALSUP: Joe, help us out on a different question, and that is, Bob's set of medals, there. Please go down one by one and explain to us what they were.

RAVEN: Joe put them together like that.



*Air Medal*

MALONEY: The first medal is — we were all very proud to get it — was an *Air Medal*. You fly a certain amount of missions in combat where the enemy is expected. You go ahead and do your job and you get this medal. On flying the number of missions that we flew, thirty-three, we also received two extra clusters on it. So, there were quite a few missions and a real great medal to be proud of and one of the best in this grouping here.



*Asiatic-Pacific Campaign Medal*

MALONEY: The next medal to be proud of would be this *Asiatic-Pacific Campaign Medal* with seven battle stars. There's one silver and two bronze. So that's seven battle stars. Those battle stars represent the air offensive over Japan, the China defensive, the southern Philippines, New Guinea, Okinawa, Luzon in the Philippines, and the western Pacific area. That's what those stars mean.

RAVEN: Oh, we did bomb Luzon one time, didn't we? I had forgotten about that.



*Philippine Liberation Medal*

MALONEY: And of course, we got a *Philippine Liberation Medal* from the Philippines, with one bronze star.



*American Defense*



*WWII Victory*



*Air Force Good Conduct*

We got the *American Defense Medal*. A *World War II Victory Medal*. And we got a medal that Bob and I are very proud to have. A *Good Conduct Medal*. I don't know whether we deserved it or not, but we got it. And that's what all these medals are.

## RETURNING HOME

RAVEN: We didn't return for quite a while. We didn't return until we landed at Mather Field on October 26th. There are many reasons for that. There had been one big typhoon when the Navy was in — while we were up there. When we first went up there — I think it was on the first day we went up there — a big typhoon. But then one morning, we woke up and Navy was *gone* and we knew we were in for trouble. We had another typhoon.

RECORD OF COMBAT EXPERIENCE

MALCNEY, JOSEPH W. (Name)  
 1st Lt. (Rank)  
 39129424 (ASN)  
 758 (SSN)

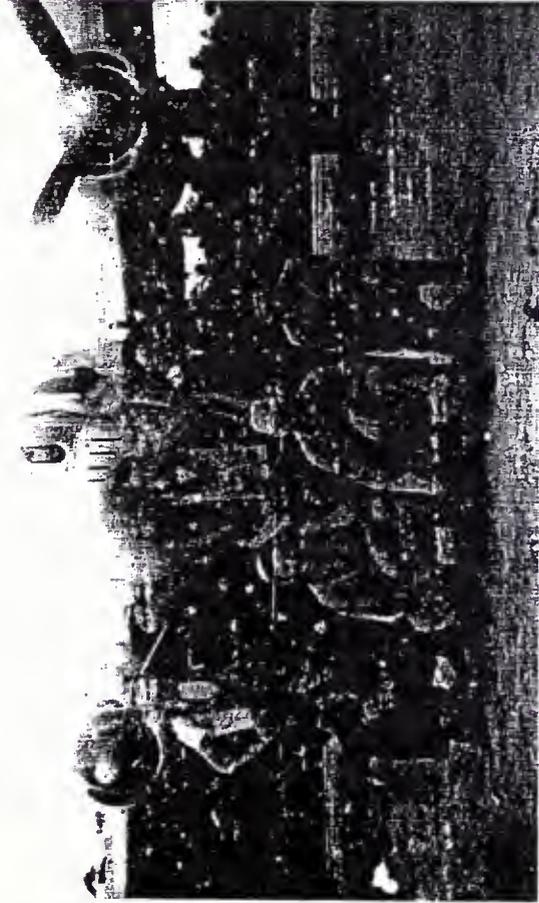
380th (Group)  
 529th (Squadron)

No of Miss. (Cum)	Mission No.	Date	Target	Hours This Miss (Cum)	Combat Hour Points	Misc. Points	Total Points (Cum)
1	82-A2	3/5	YANAGI	13.28	2.6	1	2.6
2	82-A2	3/8	MINOYAMA	13.50	2.6		5.2
3	82-A2	3/8	MINOYAMA	6.00	1.2		6.4
4	82-A2	3/9	MINOYAMA	6.00	1.2		7.6
5	82-A2	3/21	YANAGI	3.00	1.7		9.3
6	82-A2	3/25	YANAGI	4.53	1.0		10.3
7	82-A2	3/26	YANAGI	3.45	1.7		12.0
8	82-A2	3/30	YANAGI	3.45	1.7		13.7
9	82-A2	4/4	YANAGI	11.05	2.2		15.9
10	82-A2	4/11	YANAGI	10.09	2.0		17.9
11	82-A2	4/19	YANAGI	11.13	2.3		20.2
12	82-A2	4/24	YANAGI	12.00	2.4		22.6
13	82-A2	4/28	YANAGI	9.00	1.8		24.4
14	82-A2	5/8	YANAGI	12.15	2.5		26.9
15	82-A2	5/12	YANAGI	11.50	2.4		29.3
16	82-A2	5/15	YANAGI	12.15	2.4		31.7
17	82-A2	5/15	YANAGI	07.30	1.5		33.2
18	82-A2	5/26	YANAGI	12.55	2.5		35.7
19	82-A2	5/31	YANAGI	10.00	2.0		37.7
20	82-A2	6/3	YANAGI	10.00	2.0		39.7
21	82-A2	6/5	YANAGI	10.00	2.0		41.7
22	82-A2	6/5	YANAGI	10.00	2.0		43.7
23	82-A2	6/12	YANAGI	12.00	2.6		46.3
24	82-A2	6/12	YANAGI	12.25	2.7		49.0
25	82-A2	6/22	YANAGI	13.23	2.7		51.7
26	82-A2	6/25	YANAGI	3.02	1.8		53.5
27	82-A2	6/29	YANAGI	3.19	1.8		55.3
28	82-A2	6/29	YANAGI	12.40	2.5		57.8
29	82-A2	7/13	YANAGI	12.05	2.4		60.2
30	82-A2	7/15	YANAGI	12.00	2.4		62.6
31	82-A2	7/17	YANAGI	3.55	1.8		64.4
32	82-A2	8/26	YANAGI	308.00	1.8		66.2

Robert F. Johnson  
 ROBERT F. JOHNSON  
 CAPT AIR CORPS  
 OPERATIONS OFFICER.

## CHRONOLOGY OF EVENTS

- 7 Dec 1941 — Japanese attack on Pearl Harbor
- 26 Oct 1944 — Crew leaves Hamilton Field (3:00am) to fly to Biak, New Guinea
- 28 Oct 1944 — Landed on Biak Island, New Guinea
- 20 Dec 1944 — Stationed in Nadzab, New Guinea
- 5 Jan 1945 — Stationed in Darwin, Australia
- 5 Mar 1945 — Stationed on Island of Mindoro, Philippines
- 19 May 1945 — Mission to bomb Kirun docks, Philippines
- 12 June 1945 — Mission to bomb Saigon, Vietnam
- 6 Aug 1945 — Hiroshima bombed by US
- 9 Aug 1945 — Nagasaki bombed by US
- 14 Aug 1945 — Japan surrenders
- 15 Aug 1945 — Stationed on island of Okinawa
- 25 Aug 1945 — B-24 Mission to Hiroshima and Nagasaki Raven & crew leave Mindoro for Okinawa
- 2 Sept 1945 — V-J Day. Japanese sign surrender terms aboard battleship U.S.S. Missouri
- 22 Oct 1945 — Crew leaves Okinawa in B-24 to fly back to the States (via Kwajalein, Marshall Islands; Guam; and Hickam Field, Hawaii)
- 26 Oct 1945 — Crew lands at Mather Field near Sacramento



TOP, l-r: Joe Maloney, Dean Waddell, Honk Kaminsky, Richard Zapf. BOTTOM: Miles Feisterman, Otto Mills, Uncle Bill (Bill Wehrly), Bob Raven. Taken at Puerto Princess, Palawin, during a stop for refueling. 1945

TECHNICAL SERGEANT ROBERT D. RAVEN

ENGINEER/GUNNER

*and*

TECHNICAL SERGEANT JOSEPH W. MALONEY

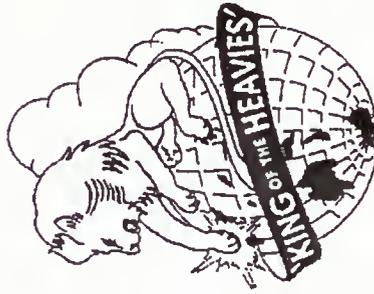
RADIO OPERATOR/GUNNER

5TH AIR FORCE



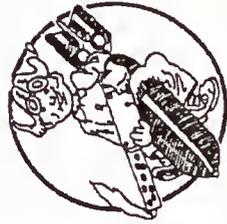
380TH BOMBARDMENT GROUP 529TH SQUADRON

MOTTO: *STRENGTH AND CONFIDENCE*



529th

OTHER SQUADRONS IN THE 380TH



528th



530th

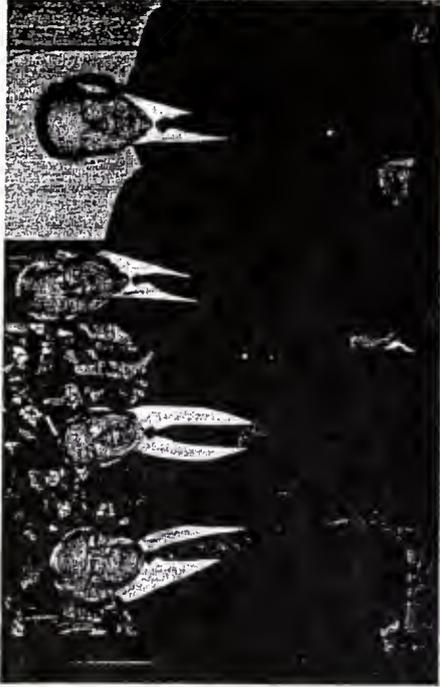


531th

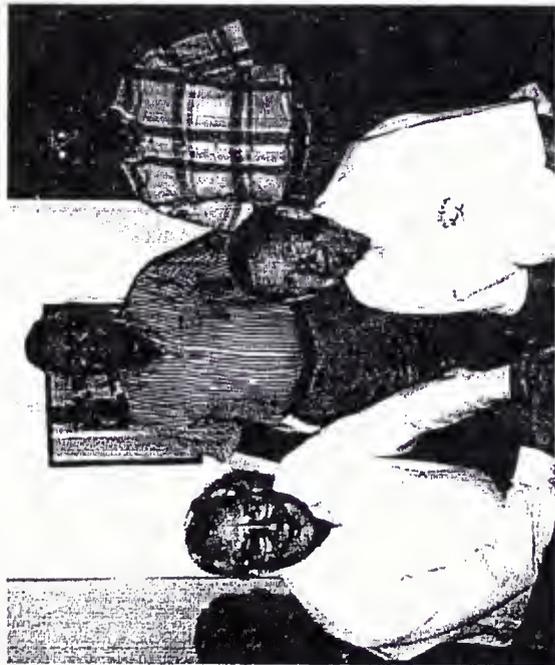
# EPILOGUE



*Joe & Betty Maloney, Bob & Kay Raven  
Reunion: Son Antonio, Texas. September 1987*



*Bill Wehrly, Dean Waddell, Bob Raven, Joe Maloney  
Reunion: Grand Rapids, Michigan. 1993*



*TOP l-r: Richard Zappf, Dean Waddell, BOTTOM: Bob Raven, Joe Maloney  
Reunion: Orlando, Florida. October 1991.*



*TOP l-r: Bill Wehrly, Richard Zappf, Dean Waddell, Miles Fetterman,  
BOTTOM: Bob Raven, Joe Maloney, Reid Miller, Don Whetstone, Hank  
Kaminski, Otto Mils. October 1944.*

**Since returning to the United States, only three of the original crew have passed away: Hank Kaminski, Miles Fedderman, and Don Whetstone.**

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**Cover photo:** *Leaving Target Area, Formosa, 1945*

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## APPENDIX E

# PRESIDENT'S MESSAGE

□ It is most appropriate that this first message of the new year express the Association's appreciation to Charles Scully, our President in 1970, for his outstanding contribution to the Association. He possesses a rare combination of intelligence, industry, independence, perseverance and fairness. All of these characteristics were generously but unpretentiously exercised during his Presidency. The Association has had excellent presidents in the past and we hope it will continue to be so blessed. However, I doubt that the excellent performance by Charles Scully and the resulting benefits to the Association will be surpassed.

The press of time last year prevented the completion of several important projects. These must be completed and further implemented. However, the coming year must be more than a year of consolidating gains. We must intensify activity in existing programs and initiate new programs that will allow the members of the Association and others to solve many of the problems that now confront us.

Turning first to the projects that must be completed, the membership, by plebiscite, has approved the Board of Directors' endorsement of the Special Review Committee report. That report, which looks toward an increasingly active Association, will serve as a guide for the future. All of the recommendations cannot be executed at once, but the Board of Directors will strive to establish priorities and commence implementation of top priority recommendations as soon as possible.

In revising the By-Laws last year, the Board of Directors completely reorganized the Association's committees. Each of the former committees which was concerned with a particular area of substantive law, e.g., admiralty, has been, or is in the process of being, reorganized as a section. The structure of each section is similar to that of the American Bar Association's sections. Each section will elect its officers; it may enact by-laws and collect dues. In brief, the sections are granted a great deal of autonomy. It is hoped that conversion of the former committees, which were limited in membership, to sections open to all interested members of the Association will increase participation in Association activities generally, and specifically in the work of the new sections.

Robert D. Raven, President



The Board also reviewed the organization of those committees which will not become sections. Six committees—Legislation, State Bar Conference Delegation, Judiciary, Referral Panel, Youth Education and Law Day, will continue as they have in the past without any change in structure except that the two latter committees become joint committees of the Association and the Barristers Club. The House, Publications, Public Relations, Membership, Entertainment, Visitor Sponsorship, and History of Bench and Bar Committees, which have common functions involving the administration or finances of the Association, will be grouped in the Administration and Finance Division. These committees will continue to have the same functions and authority that they have exercised in prior years, but it is hoped that the grouping of the committees in one division will allow better coordination of their work and more direct communication with the Board of Directors.

The Economics of Law Practice, Group Insurance, Charter Flights, Continuing Education of the Bar, Arbitration of Fee Disputes, Client Relations, Legal Ethics, Arbitration of Commercial Disputes committees, which have the common function of rendering services to lawyers in the Association, are grouped in the Lawyers Services Division.

The Government Liaison Committee, originally designated "Committee on

Cooperation With Governmental Entities," will represent the Association when Board-approved positions are presented to government entities. The committee will not initiate projects or develop positions; rather, it will go into action after a committee or section has recommended that certain action be taken and that action has been approved by the Board of Directors. Too often in the past excellent work by Association committees has borne little or no fruit because the weight of the Association could not be effectively mobilized to support the proposed action. It is hoped that the Government Liaison Committee will be able to furnish the support and pursuit that is needed to convert excellent committee research and analyses of a problem into a concrete solution. The Board of Directors has approved the nomination of President Elect Ferdon as Chairman and James Frankel, a senior member of the Board, as Vice Chairman. The Immediate Past President of the Association and the President and Vice President of the Barristers Club will serve as members.

Complete implementation of the Special Review Committee's recommendations and the completion of the reorganization of committees and sections could well occupy the time of the members and staff of the Association in the coming year but, as indicated above, there is a need to expand further existing programs and commence new programs. The excellent work of the Association's Youth Education Committee was described by Joanne Garvey in the November-December issue of *The Brief Case*. Lawyers in increasing numbers are beginning to realize the need for, and the potential of, the work being done in our schools by committees such as the Youth Education Committee. Much of the work in San Francisco has been carried on by members of the Barristers Club. An effort will be made in the coming year to expand the work of the Committee and to obtain greater participation by the senior members of the Association.

Recently members of the Association were advised of a lawyers professional liability insurance survey being conducted by the Association's Group Insurance Committee. Please complete and return the questionnaire sent to you by the Association. Inquiries from

(continued on page 9)

to avoid a race to grasp and hold the lands under the high seas. We must insure that the deep seas and ocean bottoms are, and remain, the legacy of all human beings."

Unfortunately, the U. S. took no active steps to implement this principle until President Nixon's dramatic Ocean Policy Statement of May 23, 1970, in which he proposed "that all nations adopt as soon as possible a treaty under which they would renounce all national claims over the natural resources of the seabed . . . and would agree to regard these resources as the common heritage of mankind." In his statement, the President articulated in concise form the very real and pressing problems that were growing in seriousness as time passed without international agreement on a solution. He then proposed:

"[t]he coastal nations act as trustees for the international community in an international trusteeship zone comprised of the continental margins beyond a depth of 200 meters off their coasts . . . [and that] international machinery would authorize and regulate exploration and use of seabed resources beyond the continental margins."

As the President pointed out, if such a proposal is not accepted, unilateral action and international conflict are inevitable; the oceans will become an arena of unrestrained exploitation and conflicting jurisdictional claims in which even the most advantaged states will be losers.

To implement the President's proposal, the United States has introduced before the United Nations as a working paper a Draft United Nations Convention on the International Seabed Area.\*

\*The text of the draft convention appears at 9 International Legal Materials 1046 (1970) and the text of the President's policy statement appears in the same source at page 806.

The proposal represents a compromise between those parties who desire the U. S. to assert jurisdiction over all that it can and those who desire as much of the ocean resources as is practical be placed under international jurisdiction. It is a compromise that is very favorable to nations such as the United States with high concentrations of off-shore wealth. Yet industry advocates immediately began actively to lobby to preserve and expand their interests and to defeat the President's proposal.

Industry's efforts, although short-sighted, are easily identifiable and understandable as springing from profit motivation. Unfortunately, we, as lawyers, have had a lobbying effort conducted on our behalf by representatives of the American Bar Association, which efforts are also designed to halt the movement towards a rational solution. Cliches, more relevant to eras past, are used, such as "sovereign rights" and "heritage of the American people," with reference to our potential wealth under the 1958 Convention on the Continental Shelf, and it is demanded that "the interests of the United States . . . be protected to the full extent permitted" by that Convention.

Such a position advocated by the National Petroleum Council is perhaps to be expected. The unfortunate aspect of the ABA position is that it will not so easily be identified by the public, or perhaps even by Congress, as the product of private industrial interests. The fact is, however, that many of the same lawyers who act directly on behalf of industry on this issue, played significant roles on the committees in which the ABA position was developed. The organized bar has often been accused of representing industry to the detriment of the public weal; we may be witnessing a classic instance of how that can occur.

Because of the problem of interests

vesting, time is on the side of the opponents of the establishment of an international regime. Industry continues to claim resources for its own; conflicts are developing; oil covers our beaches; and detergents, DDT and other contaminants befoul even the ocean depths. Industry need only delay action to win a victory; to cause mankind to lose.

The President is unlikely to continue to advocate the position he articulated, in the face of the strong industry opposition he is experiencing. If he does not receive support from the public. Today the public has not perceived the problem as important. Yet, the issue deserves the careful consideration of every responsible citizen. Further, as members of the Bar, we may have a special responsibility to attempt to counterbalance the position of the ABA by speaking out on this issue after a truly objective evaluation. The solution chosen will have a profound effect on the future of man. It will represent a point of departure towards either increased wealth for the few, an increasingly polluted environment, and perpetuated world conflict for all or, hopefully, the dawn of a new day when world order will prevail and all men can peacefully share in the fruits of their world. ■

#### President's Message Continued

members show that there are critical problems with regard to Errors and Omissions Insurance.

Finally, the Association must come to grips with the many problems which are often lumped together under the phrase "administration of justice." Chief Justice Burger has commenced taking these problems to the people. He needs the help of all lawyers. The committees and sections of the Association should immediately begin work on those problems which fall within their particular area of specialization.

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# PRESIDENT'S MESSAGE

Robert D. Raven, President



The newly elected officers of the Barristers Club joined the Board of Directors of the Association at their February meeting. The officers are: Mrs. Barbara A. Phillips, President; Roland E. Brandel, Vice President; Hugh H. Redford, Secretary, and Noel W. Nellis, Treasurer. At its January meeting the Board expressed its appreciation for the fine contributions made to the Board's work by Richard Hone, Past President of the Barristers, and Thomas Smegal, Secretary last year.

A General Counsel for the Association further implementation of the 1970 Special Review Committee report has been directed by your Board of Directors. Central to the report was the recommendation that an attorney be employed by the Association as General Counsel. A committee chaired by President-Elect Ferdon and consisting of Roland E. Brandel, Charles H. Clifford, Robert H. Fabian and James E. Sabine, has been appointed to prepare a job description and qualification profile for the General Counsel. Generally, it is contemplated that such a person would coordinate the efforts of the many member attorneys working on behalf of the Association, analyze proposals made to the Association and initiate recommendations for programs and appropriate action, and bring an element of continuity to Association programs and activities.

An able General Counsel working with our excellent and dedicated Executive Secretary, Sue Dinkelspiel, and her fine staff will give the Association a first rate team to aid the members of the Association in carrying out the many programs visualized by the Special Review Committee.

At the Founders' Day Luncheon of the San Francisco Lawyers Club in January, Judge Francis McCarty delivered a timely and excellent address entitled "Justice Is Everybody's Business." Judge McCarty forcefully described in actual and thoughtful presentation the extremely serious problems confronting the State courts in San Fran-

cisco. Copies of the address were given to chairmen of all committees and sections of the Association with the request that each committee and section determine what it can do to help solve the problems confronting the courts. The Board of Directors of the Association has also directed that a special committee be appointed to review the administration of justice, civil and criminal, in the State courts in San Francisco and report periodically to the Board with its recommendations for concrete action and assistance by the Bar Association. It is hoped that by the time this message reaches you the committee will be constituted and busy working on the problems that must be solved.

In January the officers and directors of the Association joined with members of Queen's Bench at a dinner meeting in honor of the Board of Governors of the State Bar. The occasion also celebrated the Golden Anniversary of Queen's Bench.

Nathan D. Rowley, Chairman of the London Dinner Program, has completed arrangements for the Association dinner to be held July 13 at the Savoy Hotel in London during the convention. **Criminal Justice Council**

The Association has continued to support the proposal for a Criminal Jus-

tice Council in San Francisco. Mayor Alioto submitted the proposal to the Board of Supervisors in early January. The Association's representatives have appeared before interested groups, including a committee of the Board of Supervisors, in support of the proposal. The San Francisco Lawyers Committee for Urban Affairs, its General Counsel, Richard Morris, and Gordon Van Kessel are to be congratulated for their outstanding efforts in working with the city government and others in developing this proposal.

Although the problem of organizing committees and sections of the Association were complicated this year because of the complete reorganization of committees and the creation of sections late last year, by the end of January all of the committees and sections had been organized and were functioning. Chairmen and vice chairmen of all committees and sections met with the directors and officers of the Association at a dinner meeting in late January to discuss plans for the coming year.

The first West Coast Lawyers Referral Workshop will be held March 12 and 13 at the Bellevue Hotel in San Francisco. Mortimer H. Herzstein, Chairman of the Association's Lawyer Referral Committee, and Sue Dinkelspiel will participate as panelists. Frank B. Cliff, a member of the Lawyer Referral Committees of the San Jose Bar, Palo Alto Bar and State Bar, will also speak. Mr. Cliff was very helpful to our committee last year during its reorganization.

#### A.B.A President Here

On March 10, about the time this issue of the Brief/Case reaches your desk, the President of the American Bar Association, Edward L. Wright, will address a general membership meeting of the Association. We are exceedingly fortunate to be able to meet with President Wright during his busy term as President of the American Bar Association. I look forward to seeing many of you at the luncheon. ■

# PRESIDENT'S MESSAGE

Robert D. Raven, President



## New Director

□ Benjamin D. James, Jr. has been elected by the Board of Directors to the vacancy on the Board created by the resignation of Robert O. Nagle. As a member of the firm of Williams & James, our new director specializes in housing and urban development law. We will all miss Bob Nagle but wish him well in his new position in New York as Vice President of Amstar Corporation.

## Membership Luncheon Meeting

On March 10 the President of the American Bar Association, Edward L. Wright, addressed a general membership meeting of the Association. President Wright reported on the important new work of several committees and sections. The luncheon was well attended. Many of our Association members who hold important committee or section assignments in the American Bar Association were seated with President Wright at the head table.

The traditional Annual Law Day Luncheon was on April 30. Evelle Younger, Attorney General of California, was the principal speaker. The Attorney General, in a forceful address, made several specific suggestions for the improvement of the administration of justice. Judge Kennedy, in his usual impressive manner, presented the 1971 Liberty Bell Award to the widow of San Francisco Police Inspector William Hamlet. Inspector Hamlet served the Bureau of Criminalistics with great dis-

tingtion. He also found time during his busy, productive life to participate actively in the work of the Archdiocese of San Francisco and to work with, and in behalf of, the deaf. This was the first time the award had been made posthumously.

The Law Day Committee, which was chaired by Thomas F. Smegal, Jr., in addition to its fine work on the Law Day Luncheon, also presented many fine programs to the community during the month of April.

## Selection of General Counsel

The committee chaired by President-Elect Ferdon, and charged with the responsibility of making recommendations to the Board on the selection of a General Counsel, has discovered there is much interest in the position. The committee has interviewed applicants during two full afternoons and has additional interviews scheduled.

## Special Committee on Courts

The Special Committee on the Administration of Civil and Criminal Justice in the State Courts in San Francisco has commenced its work under the Chairmanship of John A. Sutro. Michael Traynor is the Vice Chairman. It is hoped all members will take an interest in the work of this committee. If

you have suggestions or questions concerning the administration of justice in the state courts in San Francisco, please send them to the Association or directly to John Sutro.

## State Bar Conference Delegation

Under the new State Bar Conference procedure, the Bar Association delegation was reduced from 60 to 50. The delegation from the San Francisco Lawyers Club was reduced from 37 to 12. Consequently, the total delegation to the Conference from these two organizations will be greatly reduced. The delegates and alternates for the Bar Association have been selected by the Conference Executive Committee.

## Barristers Club Play

The Barristers Club play entitled "Jealous Mistress" is scheduled for June 3, 4 and 5 at the Village Theatre/Restaurant, 901 Columbus Avenue, San Francisco. The reports are that "Morie Bobrow has written another winner and Frank Winston is again doing his usual great job as producer."

## New Association Office

For some time it has been clear that additional space was needed for the Association office. After careful study by the House Committee the directors approved new offices on the fourth floor of the Mills Building. The new address is Suite 483 Mills Building and the new telephone number is 391-6102.

Robert D. Raven,  
President

Brief Case July-Aug 1971

## PRESIDENTE

**New Faces on the Board**

Michael Marron has been elected by the Board of Directors to take the place of James B. Frankel. Jim cut his term on the Board short in order to assume teaching duties at Yale Law School for the 1971-72 academic year. Jim was a very innovative, energetic member of the Board. We will miss him but know that Mike Marron will be an excellent director. We will also miss Barbara Phillips and Hugh H. Redford, past President and past Secretary, respectively, of the Barristers Club, whose terms on our Board ended with the expiration of their terms as officers of the Barristers Club. Both Bonnie and Hugh made outstanding contributions to the Association and the Barristers Club. Joining Roland E. Braudel and Noel W. Nellis, the new President and Vice President, respectively, of the Barristers Club, on the Association Board will be David M. Balabanian and Jerome B. Falk, Jr., Secretary and Treasurer of the Barristers Club.

**General Counsel**

On July 1, 1971, Richard B. Morris,

former General Counsel for the San Francisco Lawyers Committee for Urban Affairs, took over his duties as the first General Counsel for the Bar Association. His new position with the Association was approved by the membership upon the recommendation of a Special Review Committee established by Charles P. Scully in 1970 to study the activities of the Association. President-Elect William L. Ferdon and other members of the Board who served on the Selection Committee spent many hours interviewing several fine prospects for the office of General Counsel. The Committee is to be commended for its fine work.

**San Francisco Committee on Crime**

The Board of Directors has commended Moses Lasky, William H. Orrick, Jr., Co-Chairmen of the San Francisco Committee on Crime, Irving F. Reichert, Jr., Executive Director of the Committee, and other members and staff of the Committee for their lengthy and generous service to the City and County of San Francisco and the cause

of a fair and more effective system of justice. The Board also established a special Board committee chaired by Benjamin D. James, Jr., to recommend to the Board those steps needed to implement many of the recommendations of the Committee on Crime. The Committee on Crime was assured that the Association was not creating its own committee on crime but, rather, a committee primarily concerned with selecting priorities for action by the Association according to the Association's special responsibilities, its resources and expertise, and the relative feasibility of the various recommendations made by The Committee on Crime.

**Communications Coordinator**

The annual report of the Public Relations Committee last year recommended that the Association employ an additional staff person and that 50 or 60 percent of that person's time be devoted to communications between the Association and its members and the public generally, with emphasis upon the media. After thorough study by this

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# MESSAGE



Robert D. Raven, President

Bar's Board and the House Committee, the recommendation was recently put into effect by the employment of Mrs. Laura Muir as Communications Coordinator. Committees and Sections of the Association are encouraged to aid Mrs. Muir in becoming aware of Committee and Section activities.

## Contributions to the Centennial and ABA Convention Fund Are Needed

In 1972 the Association will be celebrating its Centennial. During the same year it will be acting as host for the ABA meeting in San Francisco. In December of last year the members of the Association were advised that the Board of Directors, after consultation with the Centennial Commission and the local committee of lawyers making plans for the ABA visit, had attempted to create realistic but prudent budgets for both affairs. It was suggested that the budgets were to be met each member would have to donate at least \$10. It was also suggested that members might like to spread the donation over a three-year period or to donate

it in any one year. Please contribute or make your pledge as soon as possible. Later in the year a reminder letter will be sent to all Association members.

## Task Force on Employment of Women in Law

In recognition that there are an increasing number of qualified women graduating from law school and that the employment opportunities for such women are not increasing proportionately, the Board of Directors established a task force to explore the employment opportunities available to women lawyers in the San Francisco Bay Area. Members of the task force are being appointed jointly by the President of the Bar Association and the President of the Barristers Club.

## Amici Curiae Brief Filed for The Association and The Lawyers Club

An amici curiae brief was filed in an action in the federal district court in San Francisco. The action involves alleged conditions at the San Francisco County jails. The brief made no comment and took no position on the spe-

cific averments of the complaint; rather, the brief was limited to urging that the dispute involved was a justifiable one which the court should hear and resolve, and, further, that the court possessed sufficient power and authority to grant effective remedies if the averments of the complaint were proven. Bernard Petrie and Peter J. Donnici prepared the brief as Special Counsel for the Association and the Lawyers Club.

## Board of Directors Support State Bar Bill

The Board of Directors has notified state legislators and the Board of Governors of the State Bar that it supports Senate Bill 1498. This bill would enable the State Bar to create, and assess its members for a client security fund, increase the annual membership fees and levy an assessment for a building fund. It is contemplated that there will be no building fund assessment until it appears that funds actually will be needed in connection with the San Francisco building program.

# PRESIDENT'S MESSAGE

Robert D. Raven, President

## Judicare

□ The Office of Economic Opportunity has granted \$2.5 million to California for the purpose of establishing a Judicare Program. There was some question whether the money should be funneled through the State OEO office or the State Bar of California. After full discussion on this program the Board made three recommendations to Frank C. Carlucci, National Director of OEO. The Board urged that:

1. The State Bar sponsor the experimental program.
2. The program provide legal services to residents of both urban and rural sections of California.
3. California lawyers should have substantial representation on the program's governing board. These should be lawyers who have the respect of both the beneficiary communities and the practicing bar.

The Association offered to assist Mr. Carlucci and told him that we will try to contact other local Bar Associations to gain their cooperation in this important program.

After learning of the creation of the California Legal Services Foundation, a non-profit corporation being organized by the State OEO office to administer the Judicare Program, I wrote to Governor Ronald Reagan on behalf of the Board. We urged him to ensure that our recommendations to Carlucci be implemented.

It is important that those closest to the private bar play a major role in the program, since it hopes to involve large numbers of private lawyers.

## Senator John Tunney

Senator John V. Tunney addressed about 260 Association members and their guests at a general membership luncheon August 12 in the new ballroom of the St. Francis Hotel. In his speech, "Constitutional Crisis and the Imbalance of Powers," the young California Democrat criticized "some actions of the White House and the Justice Department that pose a threat to civil liberties," mentioning specifically the expansion of the duties of the Subversive Activities Control Board, telephone tapping and surveillance of citizens by the military and the Justice Depart-



ment. Prior to the meeting, Senator Tunney held a press conference with approximately 25 members of the media. **Congratulations, Barristers!**

For the second time in three years, the Barristers' Club has been honored as the best young lawyers' group in a large city. The Young Lawyers Section of the ABA awarded the Barristers' Club first place in its annual competition. President Roland Brandel was at the meeting in New York City to accept the award, which recognizes the group that has had the best programs and has contributed significantly to the public good and the betterment of the profession.

The Barristers have a new slate of officers for July to December, 1971. They are: Roland E. Brandel, president; M. Balabanian, secretary; Jerome Noel W. Neelis, vice-president; and David B. Faik, Jr., treasurer. New Board members are William E. Trautman and Mrs. Lucy K. McCabe.

## Help!

The Centennial Commission and the ABA Convention Committee need your help desperately! Their appeal for \$30 from each member has netted only \$11,500 from 100 individuals and/or firms, which leaves a large gap in their projected budget.

The Centennial Commission has been active for two years, planning symposia, exhibits and special programs for our 100th anniversary. As part of the celebration, the Association will publish a history of its first 100 years by Kenneth Johnson.

The Convention Committee is planning the entertainment program for the ABA meeting here next July.

It should be an exciting year, but we do need your help to make it a success. **O. R. Project**

I am happy to announce that the California Council on Criminal Justice has made a grant of \$159,684 to the City and County of San Francisco to continue and expand the O. R. Project. Mr. John Sutro represented the Association in writing Attorney General Evelle J. Younger, Chairman of the Council, to urge the funding. The grant covers the project's basic cost as well as new areas to be instituted which include:

- a. O. R. services for hospital custody cases in order to cut down the expensive and time-consuming police responsibility for hospital guard duty.
- b. a "consultative secretariat" so that information on the project may be made available to other municipalities in the country on a consulting basis.
- c. O. R. services at the district police stations to assist police in safely reducing the number of misdemeanants incarcerated.
- d. evaluation of the role of the O. R. Project during civil disorders.

In July, I wrote Mayor Alioto outlining the position of the Board that the City should fund the project on a permanent basis. The CCCJ grant was made on the condition that the City take over funding of the project at the end of the current fiscal year; this stipulation reflects the Law Enforcement Assistance Act, the federal statute governing the CCCJ.

## State Bar Convention

Fifty delegates and 50 alternates from the Association will attend the Conference of Delegates September 13th and 14th at the Town & Country Hotel in San Diego, prior to the opening of the State Bar Convention on September 15.

Robert D. Raven,  
President.



# PRESIDENT'S MESSAGE

by Robert D. Raven, President

□ Since this is my last "President's Message," I will discuss some of the activities of the Association during the past year.

I have enjoyed serving as your President, especially ~~during a year of new direction and involvement in the community for the Association.~~ None of this progress would have been possible, however, without the help of our Executive Secretary, Sue Dinkelspiel; our new General Counsel, Richard B. Morris; the Board of Directors; Committee and Section Chairman, and the staff. I take this opportunity to express the sincere appreciation of the Association for all their dedication and hard work.

## General Counsel

The 1970 Special Review Committee Report recommended the hiring of a full-time lawyer as the director of the Association's activities in areas of public interest, for example, the administration of justice and the availability of legal services.

Following ~~approval of the concept of a general counsel by a membership vote of 824 to 326, the Board retained Richard B. Morris as General Counsel.~~ Since July 1, he has worked under my direction to carry out Board policies in connection with several important projects. Elsewhere in this edition of the ~~brief/case~~, Rich discussed what this Association, and all major bar organizations in the State, have done regarding the mid-year announcement from Washington that \$2.5 million would be granted to California for a legal service experiment. It is clear to me that (1)

the achievements he recounts are most significant in terms of bar organizations' fulfillment of public responsibility and (2) they could not have been accomplished without the follow-through his services made possible.

The same pattern of interplay between Board decision-making and Rich Morris' execution under direction of the President, and other officers and Board members as appropriate, is occurring with respect to our Committee on the Administration of Civil and Criminal Justice in the State Courts in San Francisco, chaired by John A. Sutro; review and promotion of the Committee on Crime Reports; certain ballot propositions relating to the administration of justice; advancement of legal service programs; requests that the Association appear as amicus curiae in certain cases, and similar broad areas of concern to lawyers and the public.

## Communications Coordinator

In June, 1971, Mrs. Sara Muir was hired as Communications Coordinator for the Association. Fifty to 60% of her time is devoted to improving communication within the Association as well as with the media and the public.

Sara has increased our contact with newspapers, radio, and with television through news releases, telephone calls and a special workshop sponsored by the Communications and Information Committee (formerly the Public Relations Committee) on October 6. This workshop gave our Board members and committee chairmen the chance to meet representatives from the media

and discuss some of our common problems in informing the public about our legal system.

In this ~~brief/case~~, Bruce Schwab, Vice-chairman of the C & I Committee, gives a report on the Media Workshop.

I have urged all the committee chairmen to inform Sara of committee news so she can disseminate this information to our members through In Re, the Bailiwick and the brief/case, and to the public through press releases.

## Public Service

The Special Review Committee Report urged the legal profession to "intensify and expand its community-oriented activities if it is to satisfy its public responsibility." This year the Association made great strides in various areas of public service, especially through the efforts of the Lawyers Reference Committee, the Youth Education Committee, the Clients' Relations Committee, and the C & I Committee.

## Lawyers Reference Committee

A brochure advertising the Lawyers Reference Service was published this year in both English and Chinese. It will also be reprinted in Spanish for the Spanish-speaking community. Chairman Mortimer Herzstein reported that a sub-committee is preparing ~~plans~~ for the governing of the Referral Service which should be adopted before the end of the year.

The Reference Committee is finalizing the qualifications for experience panels on domestic relations, business law, personal injury, trust, wills and estate planning, and criminal law, and

hopes to organize these panels early in 1972. This committee needs the support and participation of all our members for its attempt to recruit more minority attorneys.

#### Youth Education Committee

The Youth Education Committee, chaired by Herbert M. Rosenthal, offers approved programs on different aspects of the law to teachers and students in San Francisco. These programs are offered in cooperation with the Student League of San Francisco and the Constitutional Rights Foundation and are listed in a colorful brochure published for distribution to the public, private and parochial schools in the city.

The Youth Education Committee programs include court tours; attorney speakers on careers in the law, narcotics and the law, the Bill of Rights, and other legal topics; inservice training courses on the law for teachers, and a Hotline that helps teachers get fast answers to certain legal questions.

#### Clients' Relations Committee

The Clients' Relations Committee, under the chairmanship of Matthew B. Weinberg, has handled a steady and large volume of cases this year. As of July 16, the committee had processed 56 complaints.

#### The Communications and Information Committee

The C & I Committee under Robert Williams has expanded and organized the services of the Speakers Bureau. The Bureau now has approximately 230 volunteer speakers on over 30 different topics covering various aspects of the law. Biographical information on all the volunteers is kept at the Association offices and is sent to the organization that the speaker addresses and to the media. The C & I Committee will send out a brochure publicizing this service before the end of the year.

#### Centennial and ABA Convention

Next year will be a big year for the Bar Association of San Francisco because we will celebrate our centennial in April, 1972, and host the ABA Convention in August. The Centennial Commission, Co-chaired by Burnham Enderson and Judge Ben Duniway, has been active for two years planning symposia, exhibits, and special programs. As part of this celebration, the Association will publish a history of its first 100 years by Kenneth M. Johnson and a pictorial register of attorneys in San Francisco.

The ABA Convention Committee, under the chairmanship of Burnham Enderson, has already planned many of the programs and events our Association will sponsor for ABA visitors. Both of these committees have made appeals for funds from among our membership

and need your support to make their plans come to life.

#### House Committee

The House Committee took several steps to improve working conditions for the Association's staff. The committee, chaired by Michael Traynor, recommended additional office space and the Board approved new offices in Suite 483 of the Mills building. The committee also studied and recommended the use of data processing to perform all work relating to annual membership dues billing, preparation of the annual Directory and maintenance of the Association's membership address lists. The use of this new service will save in temporary help and printing cost and will cut the duties of the membership secretary to one-half so that her services can be used to help maintain the operation of the Referral Service.

#### Law Day

The 1971 Law Day program was highlighted by the Annual Bar Association Luncheon at the Sheraton Palace Hotel on Friday, April 30, where Attorney General Younger spoke on "The Winos of Change in Our Legal System." The 1971 Liberty Bell Award was given posthumously to William Hamlet, a former inspector with the San Francisco Police Department.

Thomas F. Smegal, Jr., Chairman of the Law Day Committee, reported that Law Day activities also included a high school student tour of Federal and City offices (a mock trial for teachers from San Francisco and Oakland held in the Federal District Court's Ceremonial Courtroom with Municipal Judge Joseph G. Kennedy presiding, a Naturalization Ceremony, essay and poster contests for high school students, and a panel discussion on KRON-TV concerning the question of discretionary power in the administration of criminal justice.

#### Membership Committee

Charles Rumph, Chairman of the Membership Committee, reports that the principal work of the committee this year was to increase membership among lawyers in public practice in San Francisco. The Association was host at a cocktail party for public practice lawyers on May 18 at the Del Webb Towne House. Approximately 43 persons have joined or filed applications since the party and this number represents about 12% of the total number who are not members (between 350 and 400).

After studying the House Committee's recommendations on the creation of a law student membership category, the Board voted to recommend such a category to the membership and information on this issue will be sent to the

members soon.

#### Travel Committee

The Travel Committee, with Thomas Carnes as Chairman, sponsored charter transportation for our members in the ABA meeting in London and a trip to the Mediterranean and Greek Islands. Hopefully, we can look forward to even more exciting trips for the Association next year.

#### State Bar Conference of Delegates

Under the new State Bar Conference procedure, our delegation was reduced from 60 to 50 this year. Nevertheless our delegates and alternates to the Conference of Delegates, September 13th and 14th in San Diego, were enthusiastic and effective. On behalf of the Association, special thanks go to Bob Wallach, Chairman of the State Bar Conference Delegation Execution Committee, and his vice-chairman, Joanne Garvey, for their tireless work.

#### O. R. Project

The O. R. Project will continue and its services will be expanded because of a grant of \$159,684 from the California Council on Criminal Justice. John Sutro represented the Association in writing Attorney General Younger, Chairman of the Council, requesting the funds. The grant was made on the condition that the City take over funding of the project at the end of the current fiscal year.

#### Luncheon Speakers

The Association had several outstanding speakers for membership luncheons this past year. ABA President Edward L. Wright addressed a luncheon on March 10, Senator John Tunney appeared on August 12, and Caspar Weinberger spoke at a luncheon sponsored by the Committee on Public Practice of the Law on November 2.

#### Bar Association Foundation

The San Francisco Bar Association Foundation awarded a \$650 scholarship to Dennis Lee Dillon, a third year student at Hastings College of the Law. This scholarship, based on financial need and academic excellence during the first two years of law school, is just one of the ways the Foundation helps the legal profession through your donations and/or bequests.

#### Bar Association Lounge

I urge you to use YOUR Lounge for luncheon and parties, especially during the coming Christmas holidays. The Lounge is under the new management of Martin Tuffli and it needs your support to continue as a convenient and pleasant place to dine. ■

## APPENDIX F

## Committee to Elect

## Bob Raven to the Board of Governors

One Market Plaza, Suite 4200 • San Francisco, California 94105 • (415) 777-6303

COORDINATING  
COMMITTEE

June 20, 1978

Brent M. Abel  
 Diane K. Barry  
 A. Marquez Bautista  
 Jerome I. Braun  
 Stephen V. Bomse  
 James J. Brosnahan  
 Robert E. Cartwright  
 Richard C. Dinkelspiel  
 Dennis Egan  
 Burnham Enersen  
 Jerome B. Falk, Jr.  
 John H. Finger  
 Joseph Freitas, Jr.  
 Joanne M. Garvey  
 L. Neil Gendel  
 Robert L. Harris  
 James F. Hewitt  
 Michael T. Ito  
 John Kagel  
 James P. Kleinberg  
 Gordon J. Lau  
 Michael G. W. Lee  
 Patricia Denise Lee  
 Paul M. Li  
 John Lockley  
 Ann G. Miller  
 Marc C. Monheimer  
 Jerry Morrow Otis  
 Leland R. Selna, Jr.  
 Nancy L. Simpson  
 Arlo E. Smith  
 Hiram E. Smith  
 Hart H. Spiegel  
 Robert Gordon Sproul, Jr.  
 John A. Sutro  
 Michael Traynor  
 E. Robert (Bob) Wallach  
 Frank D. Winston  
 Cameron W. Wolfe, Jr.

Dear Colleague:

We ask you to join us in supporting Bob Raven's candidacy for the State Bar Board of Governors.

The election of Bob to the Board of Governors is of extraordinary importance. Critical issues — court reform, malpractice insurance, opportunities for broader participation in State Bar matters by all lawyers, advertising and specialization — demand prompt and effective action.

To work effectively to resolve these difficult questions requires a person with a sense of justice and compassion, a recognition that institutions must be re-examined constantly and adjusted to meet present needs, and an ability to work cooperatively with diverse groups without sacrificing his principles.

Bob has demonstrated these qualities as President of the Bar Association of San Francisco in 1971, as Chairperson of the State Bar Conference of Delegates in 1976, as the Co-Chairperson of the San Francisco Lawyers Committee for Urban Affairs for the past two years, and in the many other leadership positions he has held. Some of those leadership positions are indicated in the enclosed biographical sketch.

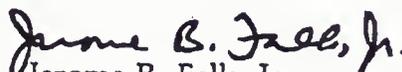
Both professionally and personally, Bob has the respect of those within and without the profession with whom he will work. He will also bring sound judgment, common sense and tact to deliberations on controversial issues; issues that potentially could provoke divisive confrontations. We believe these qualities will enable him to work effectively with all members of the Board of Governors, to the benefit of the Bar and the public.

We would appreciate your joining us to support Bob's candidacy. Please fill out and return the enclosed endorsement card. If you would like additional information about Bob, please call any of the lawyers whose names appear in this letter.

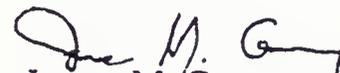
Sincerely,

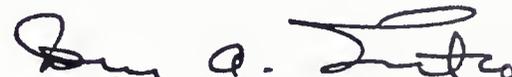
  
James J. Brosnahan

  
Ann G. Miller

  
Jerome B. Falk, Jr.

  
Hiram E. Smith

  
Joanne M. Garvey

  
John A. Sutro



## APPENDIX G

# President's Message

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Robert D. Raven  
San Francisco

This is my first opportunity to express publicly to Bill Wenke the gratitude of the State Bar for a job "well done." Bill, I am sure, has exceeded all past records in the number of visits to local bar associations. In those visits he has been a persuasive, effective and tireless advocate for the profession and the State Bar. He has demonstrated strong leadership in causing the State Bar to assume an active coordinating role in lawyer competency and court improvement. Bill Wenke and the other members of the Board of Governors also deserve great credit for a new spirit on the board. From the vantage point of a third-year member and a long time "board watcher," the cooperative spirit and resulting concentrated effort are the best I have observed for many years.

The changing of the guard will not slow the effort in lawyer competency or court improvement. I have asked Bill Wenke to continue in a leadership role in those areas.

A review of the work that remains to be done this year is in order. We must obtain a dues bill from the legislative and executive branches of government, a task that never is simple despite the fact that the lawyers who pay the dues have overwhelmingly confirmed in the recent membership survey that they want the Board of Governors rather than the Legislature to set their dues.

To prepare properly for the dues bill effort, the board and staff for some months have been carefully examining and setting priorities among existing and important new programs. This intensive effort has shown the board to be capable of achieving a consensus on very difficult issues. The charge, which is stated simply but is difficult in application, is: (1) what is the State Bar doing that it should not be doing;

and (2) how can we do what must be done more effectively and efficiently. The survey and the Monterey Committee Report have been helpful guides in the review.

The ravages of inflation and the increased expenditures required by the thousands of new lawyers (approximately 5,300 last year) that join our ranks in the State Bar each year in the lower dues tier inevitably will force an increase in bar dues. Furthermore, despite the desire of the membership as reflected in the survey, and the need as perceived by the board, to improve and intensify our efforts in the discipline system, the State Bar has had to keep its programs at the *status quo* for the last two years while the Special Legislative Investigating Committee on the State Bar has done its work.

Now, with the general approval of State Bar programs by the Monterey Committee and the membership survey we must improve: the discipline system, lawyer competency, rules of professional conduct and the courts. There is an increased demand for the ethics hotline and ethics opinions. And, if you approve the revised unauthorized practice of law program, which now is before you for comment, we hope to install the program and commence operation.

Some of these improvements have been delayed too long. The board is ever mindful, however, that the same inflation that impacts the State Bar also impacts its members. The board and the staff are, therefore, committed to running a tight ship with the emphasis on cost-effective programs mandated by the State Bar Act. At the same time, however, we cannot allow the State Bar to do less than a quality job; for if we do not perform well, the foes of self-regulation of the profession will move the State Bar func-

tions to government bureaus. Such a move would adversely affect the public and the profession.

Another problem that the board will attempt to resolve this year is the programs that certify legal specialists. Our State Bar is the pioneer in those programs. Yet they still are in the pilot stage, and there has been much "backing and filling" by all concerned. The California Young Lawyers Association continues to question whether the State Bar should certify specialists. CYLA also questions some of the standards. The majority of local bar association leaders at the recent Conference of Bar Presidents also expressed dissatisfaction with certain features of the existing program, although they strongly supported the concept of a proper legal specialization program. Consequently, the board has asked the Board Committee on Lawyer Services to hold hearings in May. Please come with your constructive suggestions for improvement as well as your criticisms. The board, with your help, intends to set a clear course concerning specialization.

The board and staff also are engaged in developing a comprehensive compendium of State Bar policies and procedures.

The combination of the tasks of developing the comprehensive compilation of policies and procedures and the programmatic review requires a searching and critical analysis of the State Bar's purpose, its activities, its governance, the staff and the budget. The process inevitably will result in a better organized State Bar with articulated policies and defined procedures to implement and execute those policies. A more effective and efficient institution is both the goal and the reward.



# President's Message

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Robert D. Raven  
San Francisco



On March 10, the Reagan administration announced plans to eliminate the Legal Services Corporation, which receives \$321.3 million a year in federal funds to provide civil legal services to the poor.

On the morning of the tenth, Bill Wenke released a statement urging continued funding. He applauded the effort to reduce federal expenditures but stated that legal services for the poor was not the place to cut.

Later that afternoon, in Washington, D.C., I made the same point at an American Bar Association press conference, which focused media attention on the harm that would result from elimination of LSC funding. Fifteen state bars and local associations attended the press conference.

On March 28, the Board of Governors unanimously adopted a resolution stating that "The State Bar of California strongly opposes the elimination of or the deletion or reduction of funds to the Legal Services Corporation." The board further resolved that the state bar "strongly opposes any restrictions on the ability of Legal Services Corporation-funded attorneys to provide representation consistent with the highest standards of professional practice." Then, on April 1, a delegation of lawyers from California joined 120 other lawyers from more than 40 states in ABA-sponsored meetings with members of Congress.

The history of federal support for delivery of legal services to the poor reflects, until now, a gradually increasing funding with bipartisan congressional support, despite the controversies that sometimes swirl around some of the programs.

The first organized legal aid society was established in New York City in 1876, and the ABA Commit-

tee on Legal Aid was established in 1920 under the chairmanship of Charles Evans Hughes. By 1965, there were 248 legal aid societies in the United States supported by legal services contributed by members of the private bar and funds donated by lawyers and other citizens.

Because of the continuing unmet need, in 1965 the ABA House of Delegates, under the leadership of Lewis F. Powell, Jr., (now Justice Powell), and others successfully urged the federal Office of Economic Opportunity to fund delivery of legal services to the poor by grants to the states for use in local or statewide programs.

Recognition of the need for an independent, federally funded legal services corporation emerged from the decade of "grants to states" experience. Often the poor's legal disputes were with public officials who made decisions about the poor's housing, income, health care or children. Conflicts and controversies arose when those same officials were charged with the fate of these legal services programs. Consequently, at the urging of the ABA and others, including The State Bar of California, Congress and President Nixon established the Legal Services Corporation in 1974 to "provide high quality legal assistance to those who would otherwise be unable to afford adequate legal counsel."

The corporation, which is governed by an 11-member board appointed by the President, may provide services only in civil matters. The corporation does not provide legal services directly; rather, it funds programs at the state and local level. In fiscal 1981, the corporation will distribute in excess of \$29 million to California for programs located throughout the state. For

example, in the south more than \$1 million will support the Legal Aid Society of San Diego, and in the north approximately \$400,000 will go to Redwood Legal Assistance in Eureka.

The corporation provides 85 per cent of the funding for legal services to the poor. The programs, which cover all 3,000 counties in the country, are highly cost effective. Overhead is small; less than three per cent of the funds go for administrative overhead. An estimated 1,500,000 matters are handled each year. Each local program is governed by locally selected boards. At least 60 per cent of the members of these boards are local attorneys. The Legal Services Corporation Act requires the governor of each state to appoint a nine-member State Advisory Council responsible for notifying the corporation of apparent violations of the act by funded programs.

Although it would be desirable to continue LSC funding at the full current level, the political realities may dictate some compromise solution. What then should be the bar's specific response to the administration's proposal? Certainly, reduction of federal expenditures generally should have broad support. The federal government has been living beyond its means. But, if we believe that access to justice for all is fundamental to our nation, we cannot undermine that access for millions of poor people.

What is an acceptable compromise? Some members of Congress who support the administration proposal do so because they wish to support the overall budget-cutting effort despite the loss of some meritorious programs. Others argue, however, that: (1) the private bar should serve the poor on a *pro bono*

basis; (2) funded programs should be limited to "one-on-one" counseling and should not support "impact" cases; and (3) funded programs should not support lobbying for clients.

Although the private bar has contributed significantly in terms of time and talent, it is unrealistic to anticipate that a volunteer effort could absorb more than a small percentage of the need for these legal services. Even if it could, should the bar be forced to shoulder this entire burden? An attorney who recently has urged mandatory *pro bono* services concedes that: "One of the most telling arguments against mandatory *pro bono* is the contention that unmet legal needs are but a part of the larger social problem of poverty and that it is unfair to expect lawyers to shoulder a burden that properly belongs to the whole of society." (Barlow F. Christensen, *The Lawyer's Pro Bono Publico Responsibility*, Vol. 198ABF Research J (No. 1 Winter) pp. 1, 16.)

There also are serious definitional problems in asking the "bar" to pick up this load. Many sole and small firm general practitioners, especially those practicing in small towns, rural or urban neighborhoods, provide a fair amount of legal services on a no-fee or low-fee basis. Young lawyers in those situations probably get more than their share of such matters. To ask this group of lawyers to assume a greater amount of *pro bono* cases is to place a disproportionate burden on those least able to bear it.

Undoubtedly, during the coming years, each of us can and should do more to assume the burden. Urban firms might be able to pick up some of the "national support center" work. Urban firms have increasingly done more impact cases.

In conclusion, there may be a compromise position which would limit federal funding but yet preserve the integrity of the work of the Legal Services Corporation. Such a solution will not develop in the posturing atmosphere of Congressional hearing rooms; it must be worked out by the administration and the organized bar in a dispassionate and objective setting—with input from each of you. If you want to be heard, write your representatives in the United States Congress.

# President's Message

Robert D. Raven  
San Francisco



Media reports about the state bar and legislative hearings tend to focus upon the activities of the Board of Governors and the Conference of Delegates. Although policy decisions by the board and conference resolutions are newsworthy, it is unfortunate that the day-to-day work of thousands of volunteer lawyers and a fair number of nonlawyers aided by the state bar staff does not receive more attention from the media, the public and other lawyers. Those volunteers are the unsung heroes of the state bar and form the broad, solid base upon which self-regulation of the profession rests.

Much of the California state bar's reputation as one of the nation's leaders in discipline is attributable to these volunteers. More than 500 referees give freely of their time in the investigation, hearing and review departments of the State Bar Court. Other volunteer lawyers serve as trial examiners alongside staff attorneys in the Trial Counsel Department.

The state bar's acknowledged leadership role in admissions was forged over the years by hard-working, devoted volunteers who have constituted the Committee of Bar Examiners.

Over 35 committees and sections are driven by thousands of volunteers. Many lawyers are familiar with committees such as those on the administration of justice, appellate courts and federal courts, but how many are aware of the work of the Group Insurance Programs Committee? Yet, nine very talented insurance law experts each contribute 200 to 300 hours every year to

design and administer programs for life, disability income, accidental death and dismemberment, health care and professional liability insurance. Many thousands of lawyers and their dependents benefit from these programs. The committee is busy this year designing a dental plan and an "office package" plan that will give coverage for the pockets of exposure not provided for by the other programs.

Although it is regrettable that the volunteers do not receive from many members of the bar the credit they deserve, that lack of recognition is not the primary loss. The great harm resulting from lack of awareness about this tremendous voluntary effort is that too many members of the state bar ask: What does the state bar do for me? However, most of those same members would answer all or nearly all of the following questions in the affirmative. That prediction is based upon the membership survey last fall, the Monterey Committee report and the ensuing action of the Conference of Delegates, the work of the Special Legislative Investigating Committee and the Board of Governors' own programmatic review.

Is the state bar doing a good job in its admissions and disciplinary programs and am I thereby benefited?

Has the administration of justice been aided and have I therefore benefited because of changes in the law brought about by the efforts of the Conference of Delegates or committees or sections of the state bar?

Has the administration of justice been aided and have I therefore benefited because of the work of the Commission on Judicial Nominees Evaluation in evaluating judicial nominees?

Do I participate in any of the insurance programs designed and administered by the Committee on Group Insurance Programs?

Have I benefited by my participation in a section or sections of the state bar?

Does my local lawyer referral service benefit from the guidance and advice furnished by the state bar Legal Services Department?

The above questions are but a small portion of those that could be asked. Similar questions could be asked about local bar liaison, accreditation of law schools, the ethics hot line and opinions, unauthorized practice of law, legal specialization, law corporations, judicial system reform, development of new rules of professional conduct, maintenance of professional competence, client security fund proceedings and mandatory fee arbitration.

A majority of those who ask what the state bar has done for them do so because they are not aware of the state bar programs. That is the fault of the state bar; it has not been a good communicator. However, a very small but vocal number of lawyers have different axes to grind.

Whatever the cause, the efforts of this group in turn fuel the efforts of an even smaller group who would take self-regulation away from the profession and substitute regulation by a state bureau or department in Sacramento. Since such a move would be extremely detrimental to the public and the profession, each of us should make every effort to see that the great work of the volunteers of the state bar is made known to those lawyers who are unaware of it.





# President's Message

Robert D. Raven  
San Francisco

*The following message was published in the San Diego Union on May 24, 1981, as part of a state bar effort to explain California's lawyer discipline system to the public.*

Lawyers have been analyzing and working to improve the discipline system since The State Bar of California was created by the state legislature in 1927 to regulate the legal profession.

On a national level, however, California's discipline system long has been considered a model for other states to follow. In 1970, an American Bar Association commission chaired by retired U.S. Supreme Court Justice Tom Clark issued a report that charged, "after three years of studying lawyer discipline throughout the country, this commission must report the existence of a scandalous situation that requires the immediate attention of the profession."

The Clark Commission then listed 36 separate problems with the discipline process and suggested to the states how to improve it. In nearly all 36 instances, the model procedures mirrored California practices. In fact, the ABA's model system was the California discipline system.

California lawyers give the discipline system high priority: A 1980 Field Research Corporation poll of 1,207 lawyers scientifically selected to represent a cross-section of bar membership found that lawyers rated discipline as one of the state bar's two most important functions.

Reflecting this top priority, the discipline system is the largest single item in the state bar's budget. More than \$4 million will be spent on lawyer discipline this year. And this figure does not include the value of more than 22,000 hours contributed by the 500 lawyers and

members of the public who volunteer to investigate, hear and review discipline complaints. Their contribution—figured conservatively at \$50 per volunteer hour—adds another \$1 million plus to the amount of lawyer dollars spent annually on self-regulation. In addition to the 500 volunteers now working with the discipline system, there is a lengthy waiting list of lawyers and citizens eager to participate.

Every one of the 6,315 complaints received in 1979 was carefully checked into by one of the 27 staff attorneys who prosecute discipline complaints for the state bar. Of these 6,315 complaints, about 1,000 resulted in a satisfactory resolution of the attorney-client "communications" problem once the complaint was brought to the attorney's attention. In another 1,092 cases in which the staff attorney investigations indicated evidence of wrongdoing, the complaints were referred to volunteer lawyer referees for complete investigation. Screening of the remaining 4,223 complaints either did not disclose enough evidence or involved behavior that is not covered under the state Supreme Court's discipline rules for lawyers—and thus could not be pursued under the state bar's disciplinary system.

A number of safeguards—including nonlawyer involvement in the hearing and review of complaints and the right to appeal—help to ensure the integrity of the process.

Public members play an important role in lawyer discipline. Nearly one-third of the 321 hearing referees and five of the 15 review referees are nonlawyers. They hear and decide discipline cases right along with the lawyers, and they have confidence in the discipline process. Ann Cooper of Arcadia, a nonlawyer who has participated in the system for four years, says, "In

my experience, the lawyer discipline system is responsive and responsible. In fact, many times a lawyer recommends harsher discipline for his peer than I do."

Any complainant who believes the staff attorney or investigation referee dismissed his case unfairly has the right to have the decision reviewed by a committee of the state bar's Board of Governors; this committee includes nonlawyer members who are appointed by Governor Brown. A citizen also can ask the state Supreme Court to reconsider the state bar's final decision on his complaint. The court will tell the state bar to reopen the case if the justices feel that the bar acted in an "arbitrary, capricious or unreasonable" way.

These safeguards are particularly important because much of the lawyer discipline process is confidential. However, lawyers today disagree about how much confidentiality is necessary. Some believe that discipline charges can tarnish a lawyer's reputation permanently and should remain confidential until they are proved. Others believe that, when formal charges are filed, the lawyer's name should be made public. In May, the Board of Governors voted to open certain proceedings—such as probation revocation hearings and conviction referral hearings, which take place when the state bar is notified that a lawyer has been convicted of a crime, and Rule 955 proceedings requiring attorneys to advise their clients, the courts and opposing counsel of their suspension, disbarment or resignation—to the public and the press. With such proposals, the state bar continues to seek the proper balance between privacy concerns and the public's interest in the process.

To improve the discipline system, and, thereby, to better protect the

public, lawyers continually work in many ways including:

- The state bar's Client Security Fund paid out \$337,532 to 86 clients last year. Funded by a special lawyer-paid assessment, the CSF pays back up to \$25,000 for money a client lost through a lawyer's dishonest conduct.
- Patterned after Alcoholics Anonymous, the state bar's Alcohol Abuse program helps attorneys resolve drinking problems that affect their work. Since 1973, some 900 lawyers and judges have participated in the program, and almost two-thirds successfully have handled their drinking problems.
- In 1978, the state bar sponsored legislation to create a mandatory fee-arbitration program, which requires a lawyer to arbitrate a fee at a client's request. Fee-arbitration programs—conducted by the state bar and by 34 local bar associations operating under state bar-approved standards—resolved more than 2,000 fee disputes last year.
- The state bar staffs an ethics "hotline" to answer questions from lawyers. Last year the hotline re-

sponded to more than 8,000 calls and letters, helping lawyers prevent unethical conduct and improve lawyer-client relations.

- Recently, the state bar authored legislation to permit discipline authorities to apply for conservatorship and take over the practice of an attorney who, for example, is suffering from alcoholism, emotional difficulties or senility.

- A proposal that would permit the state bar to fine lawyers up to \$2,500 per offense, either separately or in conjunction with another form of discipline such as a suspension, now is pending before the state Supreme Court.

- The state bar's first continuing-education courses for attorneys on proper client trust account management will be held in September and October.

- Currently, the state bar is seeking comments from lawyers and the public on a proposal for a voluntary attorney peer-assistance program to be implemented by local bar associations. The proposal urges attorney-to-attorney assistance to deal with

competency-related problems such as poor law office organization or management, sloppy work habits, emotional conflicts, drug or alcohol abuse, or a lack of needed skills or knowledge.

Other problems, of course, remain to be solved. Americans' increasing penchant for resolving conflict through litigation has led to more lawyers and, therefore, more complaints about lawyers. Like the courts, the state bar faces a case backlog. But this backlog has been drastically trimmed—due to streamlined case-management procedures.

In summary, California's lawyer discipline system is nationally recognized as "outstanding"—an example for other states to follow. But those of us closer to home recognize its imperfections, and the state bar, along with the 100 members of the public now actively involved in various aspects of the discipline process, will continue working together to solve existing problems and to make the system work better for all Californians.

# President's Message

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Robert D. Raven  
San Francisco



The following message was adapted from speeches delivered by state bar President Raven to Town Hall in Los Angeles and to the Commonwealth Club in San Francisco. The speeches were written by Raven in conjunction with Thomas E. Wilson, an associate with Morrison & Foerster.

Once the media discovered the intense concern of the citizenry with rapidly escalating violent street crime, one could be sure that our "leaders," the politicians, would not be far behind. Legislators, who a year ago gave no thought to crime or anti-crime legislation, suddenly were cranking out such bills by the hopper-full.

Although the criminal justice system includes the law enforcement group (police and prosecutors) at the intake end of the system, with the correction system (jails, prisons, probation and parole) at the final stage and the court system sandwiched in the middle, the media and, consequently, politicians are concentrating most of their attention, criticism and reform efforts on the courts.

Why are the courts catching all of this flak? Analysis of the entire system shows that the courts' role is not that critical nor are the courts doing that poorly. Accepted statistics reveal that for every 100 crimes only 30 are reported to the police who, on the average, arrest only six persons. Eighty-five per cent of the defendants brought before the California superior courts by the police and prosecutors are convicted. Ninety per cent of those felony convictions result from guilty pleas. Nine out of 10 convictions are upheld following appeal. When it comes to sentencing, California now incarcerates a higher proportion of its men, women and children than the na-

tional average. Indeed, California's incarceration rate is higher than any other advanced nation in the world except for South Africa and the Soviet Union. Yet, the media and politicians continue to focus almost exclusively on the courts.

In part, the media's rather myopic focus upon the courts results from the very ease of gathering news of court activity. It is much harder to investigate and report on the role that prosecutorial discretion plays in the administration of criminal justice or to describe and analyze the failure of our law enforcement agencies to apprehend most criminals.

Another reason that legislators are quick to advance court reform as anti-crime measures is that it is politically popular. Such measures can be touted as being "hard on crime" but "soft" on tax dollars. Our politicians are well aware of the public's reluctance to pay for an increase in government anti-crime efforts. The lesson is easily learned from the lukewarm, or even hostile, reception given costly proposals to wage war on crime. For example, Governor Brown's proposal to spend five billion dollars on crime control, financed by an increase in the sales tax, is going nowhere. Chief Justice Burger's proposal that we commit vast resources to control crime and assign it a priority "as much a part of our national defense as the Pentagon budget" has fallen on barren ground. Local propositions, such as Proposition A in Los Angeles, to strengthen the police forces are losing across the state. Such defeats have told the politicians how unwise it is to attach a price tag to crime control measures.

The clearest example of the public's mood, "mad as hell about crime" combined with an un-

willingness to increase tax revenues to support crime control measures, is presented in the initiative suggested by Paul Gann, the co-author of Proposition 13 who now heads a group called the "Citizens' Committee to Control Crime." Gann's initiative would, among other things, prohibit plea bargaining in all felony cases. Clearly, if approved, the initiative will cost a tremendous amount of money. Yet the initiative has no "tax plank."

Undoubtedly, there are areas for court improvement. Plea bargaining reforms are overdue. Pretrial delay must be reduced; and we must control an endless cycle of super-technical, often frivolous, appeals. A criminal trial should remain a search for truth, not a search for error.

However, there is an undue concentration in the proposed crime control bills on the exclusionary rule and mental defenses. Whatever the merits of the proposed changes, such changes are highly unlikely to make any difference at all in the crime rate. The chief difficulty in convicting murderers, robbers, burglars and rapists lies in catching and identifying them.

Indeed, the *certainty of punishment* is much more important in reducing the crime rate than the *severity of punishment*. The greatest concentration should be at the crime prevention and detection stage. The court system is at best a "damage control" operation.

We must change our attitudes about crime, attack its root causes, see the criminal justice system as a whole and spend the money needed for crime prevention and enforcement. We should insist that the politicians deliver solutions, not snake oil.



## APPENDIX H

# Litigator as New Head of the A.B.A.

Robert Dunbar Raven

NY Times  
8/12/88

By E. R. SHIPP

Special to The New York Times

TORONTO, Aug. 11 — When Robert D. Raven sought office as the American Bar Association's president-elect two years ago, there were some in the organization who thought him too liberal for the job. So, in an almost unheard-of departure from the association's traditions, the A.B.A. had a contested race.

Man  
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News

But Mr. Raven, a senior partner in Morrison & Foerster, an old San Francisco law firm that is known for its efforts to recruit women and members of racial minorities and its commitment to programs for the poor, was not satisfied with being labeled "liberal."

"People would say: 'Gee, I don't know. You're very liberal,'" he recalled in an interview at the association's annual meeting here this week. "I'd say: 'Well, I'm liberal in human rights, but I'm not so liberal with money. How does that affect the issues we're talking about? Is discipline a liberal issue or a conservative issue? No, it's a professional issue.'"

## A Changing of the Guard

He managed to sell himself well enough to be elected over two other candidates. And Wednesday, in a changing of the guard that reflects the evolution of an organization well-known for its resistance to change, Mr. Raven took office as the bar association's 112th president.

At a news conference Wednesday he described the priorities of his one-year term in office, summarized under the theme of "achieving fair, effective, affordable justice." Mr. Raven said he hoped to persuade a new administration in Washington to increase financing of the Federal Legal Services Corporation, an agency whose ability to provide legal services to the poor has been sharply curtailed in the Reagan Presidency.

"Our first obligation is to make the justice system work," Mr. Raven said in the interview, "but that involves a lot of social issues." Among those he cited were increasing the involvement of women and members of racial minorities in the profession and addressing the plight of the homeless and of AIDS victims.

## Broad Responsibility Sought

Mr. Raven, who will turn 65 years old next month, became a leader of the bar 19 years ago when he led a challenge to the "old guard" that had run the San Francisco Bar Association as a private club. Heading a slate that demanded more openness, Mr. Raven was chosen president-elect by a 2-to-1 margin and assumed office in 1971.

"He broke new ground when he became president of the Bar Association of San Francisco, and he has been in the forefront of moving the organized bar into causes where traditionally maybe they have been less



Tim Davis

Robert D. Raven, the new president of the American Bar Association. He managed to sell himself so well that he was elected over two other candidates despite criticism that he was too liberal.

than active," said Edward E. Kallgren, the current president of the San Francisco Bar Association and a lawyer who has known Mr. Raven since both men were law students at Boalt Hall, the law school of the University of California at Berkeley.

Although firmly committed to his principles, Mr. Kallgren said, Mr. Raven "goes about it in a way that is very comfortable in the establishment, in the bar association, in the A.B.A. and places like that."

Mr. Raven said he spent his year as president-elect on long-range planning for the bar association. "I used to think the A.B.A. was like a large battleship — you know, it would be hard to swing around," he said. "But its much tougher than that. It's a flotilla of ships, and not all of them are under unified command."

He noted that there were more than 2,000 separate boards, sections, divisions, committees and commissions in the bar association. His challenge, he said, is to unite them in a common focus.

His two favorite books may not make him a hit at cocktail parties, but they should stand him in good stead in his tenure as head of the bar association. One, by the English economist E. F. Schumacher, is "Small Is Beautiful: Economics as if People Mattered."

"It points out that whether we like it or not, there's a tendency in the world to consolidate and have largeness — larger law firms, larger corporations and so forth," he said. "So you have to learn to operate those."

His other favorite book is John W. Gardner's "No Easy Victory," especially a chapter entitled "The Life and Death of an Institution."

Robert Dunbar Raven was born on Sept. 26, 1923, on a farm in Cadillac, Mich., the second of Chris and Gladys Dunbar Raven's eight children. He met his wife, Kay, when they were sophomores in high school. They married after each had served in the armed forces in World War II, he in the Air Force, she in the Marines.

After his graduation from law school in 1952 Mr. Raven joined Morrison & Foerster, becoming the 17th lawyer in the firm. In 1956, after making a name as an antitrust litigator, he became a partner. He is now a senior partner in the law firm, which today has nearly 400 lawyers, about 31 percent of whom are women.

"I think that's what's predicted for the profession for the year 2000, so we're a little bit ahead of our time," he said.

continued...

Litigator as New Head of the A.B.A.  
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continued...

**'A Sense of Fairness'**

Mr. Raven and his wife have three children. Mrs. Raven and their daughter, Marta Ellen Raven, raise Morgan horses on the family's farm in the Capay Valley, about 90 miles north of San Francisco. Their sons are Matt Robert Raven, a doctoral candidate at Ohio State University, and Brett Lincoln Raven, a lawyer in another San Francisco firm.

Mr. Raven is an avid reader of books and newspapers and says they "more than anything else" have influenced his view of the world.

Mr. Raven said his idea of relaxation was to hop onto his John Deere tractor to mow the grass and to help cultivate the grapes at the farm. He is nearly 6 feet 2 inches tall and weighs 205 pounds, and he keeps fit by jogging, usually about two miles a day when he is home. Even here in Toronto he ran a few times around his hotel each morning, "just enough to get into a good sweat and get some of the tension out."

## APPENDIX I

# THE PRIDE IN A PUBLIC CALLING

BY ROBERT MacCRATE

As I pass along the very special privilege of leading this Association to my respected successor and friend, Bob Raven, I offer a few closing comments based on my experience over the past year as to the state of the Association and of the legal profession and where they appear to be headed.

Along with thousands of colleagues, I am proud to be an American lawyer in 1988, to be a member of the American Bar Association and of state and local bar associations, and to be part of our public calling.

The American legal profession in a very real sense created itself since the 1870s when the modern organization of the bar began and the single model of legal education in America took root. The profession is today what individual lawyers have done over more than a century to organize it, to provide for its education, to establish standards for admissions to the bar, to prescribe ethical precepts for practice, to regulate its members and to articulate the lawyer's responsibilities to the public. We can justly take pride in much that the organized bar has accomplished in each of these areas.

The ABA today seeks to represent and heed the concerns of the entire legal profession. Despite the enormous growth in the number of lawyers (200 percent in 30 years), one out of every two lawyers in the United States today belongs to the ABA—the highest percentage in Association history.

The membership is exquisitely diverse, representing all segments of the profession. Where we have found segments of the profession underrepresented in the Association, we have targeted new membership programs to those groups while seeking to identify how the Association can better serve them. Current efforts focus upon academic lawyers in some 175 ABA-accredited law schools and upon judges and other lawyers in public service.

The rise and survival of the American legal profession as part of a just society functioning under a rule



At the Bar Center, President-Elect Robert D. Raven and President Robert MacCrate discuss the future of the profession and the ABA.

of law reflects a pragmatic accommodation. America is still a populist nation in which privilege is no one's right or inheritance. For our profession, the national antipathy toward any group claiming exclusive privilege is reconciled with the necessity to ensure that for the public's own protection lawyers have special skills and meet certain standards of training and competence.

Looking upon our license to practice as coming from the public, we should ask how well we are fulfilling the public obligations associated with the practice of law. There are those who erroneously conclude from disappointing individual examples that public service and pro bono activity is diminishing or who feel threatened by lawyers who have lost sight of the imperative to maintain the proper balance between profitability and service.

However, I have found a profession more concerned than ever before with its professionalism and the body of values which define it, seeking to hold lawyers to higher standards, developing new ways to assure and to maintain professional competence and working to identify and

satisfy unmet needs for legal services. Last year alone nearly 120,000 lawyers provided legal services to the poor through pro bono programs sponsored by the private bar.

Yet there is compelling evidence that the need for legal services still far surpasses the supply. The challenge remains both to the profession and to the public at large to see that this need is met to assure truly equal access to justice.

As I have talked with the leaders of today's younger lawyers, I have been struck by their repeatedly espousing service beyond profit, reminding the entire profession that the law and society are not static, and prodding the bar to address public matters for which legal solutions are required. The future leaders of the legal profession are saying that the profit for lawyers lies not in the bottom line alone.

The young lawyers' view of what they want their life in the law to be gives me confidence that we can continue to fulfill our mandate from the American people who chartered lawyers not as profit centers but as a learned and caring profession of service. ■

# PRIVATE JUDGING: A CHALLENGE TO PUBLIC JUSTICE

BY ROBERT D. RAVEN

Plagued by congested courts, especially in California, many potential litigants have turned away from the public system of justice to hire private judges. Some distinguishing features of private judging procedures—such as rent-a-judge or arbitration—are that unlike judges in the public system, the decision makers are paid by the parties, who consent to the process.

Much has been said about the benefits of private judging. Private judges can hear and resolve cases more quickly than public courts can, thereby reducing the financial and emotional costs of delay and uncertainty.

But private judging also poses serious concerns. Indeed, the very attractiveness of private judging raises the specter of a two-tiered system of justice in which those able to afford private judges abandon the public system, leaving it to the poor and to those accused of crimes.

The growth of private judging may also erode the quantity and quality of services that the public system can provide. The amenities of private judging—high pay, modern facilities, fewer and more interesting cases—may attract the public system's best judges and staff. The National Center for State Courts and the California Judges' Association are currently examining the extent to which private judging may have caused the recent, rapid increase in retirements among California judges.

While there may be some short-term reduction in congestion in the public court system as private judging grows, the long-term effect may be just the opposite if economically and politically powerful groups abandon the public system. These groups, like many individuals whose children attend private schools, may have less incentive to support increased revenues for a public system they can avoid.

A decrease in the ability of the public system to deliver effective justice may affect the perceptions of those both within and without the



ABA/JCINDY CHARLES

President Raven, left, and Chief Judge Robert F. Peckham of the U.S. District Court for the Northern District of California, discuss the court's Early Neutral Evaluation Program, which offers similar advantages of a private dispute resolution procedure. The program brings in highly qualified private lawyers as mediators soon after cases are filed. If no settlement is reached, parties proceed to trial.

system. Public servants, rather than meeting the challenge posed by private judging, may be less concerned about alleviating delay, knowing that the litigants can hire a private judge. And public courts, like public schools and other public institutions, may become the alternative only for those without alternatives.

Besides the possible impact of private judging on our public system, private judging has its own limitations. The public plays at least an indirect role in selecting public judges; private judges, who may be asked to resolve questions of public importance, are chosen solely by private parties. And certain forms of private judging dispense with many of the most cherished and carefully developed features of our public system: open proceedings, written decisions, appellate review, and the evolution of the common law.

True, private judging has the laudable goals of reducing delay and increasing the public's access to justice. However, the potential dangers of providing one system of justice for the affluent, and another for every-

one else, should stimulate us all to improve our system of public justice. This 200-year-old system with vital safeguards cannot simply be replaced by private judging.

But we need not choose between public and private justice. The solution instead is illustrated by the anecdote about the college football coach who was asked about the equity of offering more than 100 athletic scholarships and only eight science scholarships. The coach responded, "The problem ain't that we're giving too many scholarships to the football team; the problem is that we ain't giving enough to them other fellers." Our problem is not that we are doing too much to develop private alternatives; it is that we are not doing enough for our public system of justice.

The challenge for members of the Bar is to scrutinize the strengths and weaknesses of both private and public judging. Only by increasing and adopting the strengths of each, can we move our system of justice toward its ultimate goal: fair, effective, and affordable justice for all. ■

# DEATH PENALTY CASES: ENSURING FAIRNESS WHILE REDUCING DELAY

BY ROBERT D. RAVEN

CALIFORNIA LAWYER/MAX RAMIREZ

As a nation—and as a profession—we must address the most critical issue facing our justice system: ensuring fairness while eliminating delay in the administration of the death penalty. Whether one opposes or supports capital punishment, as lawyers we should agree that no one should be subjected to this ultimate sanction without the opportunity to challenge fully the justice of its imposition.

Federal habeas review has been an important safeguard against injustice. Judge John C. Godbold, former chief judge of the 11th Circuit—the court which has heard the greatest number of capital habeas appeals—reports that during his tenure, the court found serious constitutional errors in fully one-half of the post-conviction reviews.

Some lawyers and jurists, however, have suggested that state and federal post-conviction review is simply too burdensome. As America's death row population increases, our entire justice system will feel the impact of these complex, time-consuming and emotionally draining cases. In Florida, the state with the largest death row population, observers estimate that the Florida Supreme Court spends one-third of its time on post-conviction review. And the picture for the rest of the nation is equally troubling. One study has predicted that 300 new capital habeas cases will enter the federal system in the next year.

These new cases will be added to a system already burdened by delay. As former Justice Lewis F. Powell Jr. reported in his address to the Criminal Justice Section at the ABA Annual Meeting in Toronto, the period between the date of the crime and the execution averages eight to 10 years in most states. Justice Powell suggested that "the time has come for Congress to give thoughtful consideration to making reasonable changes in the federal law governing review of criminal convictions."

The ABA must participate in the evaluation of the current system of federal review. We are already working, through our Criminal Justice



President Raven, left, with John M. Greacen, immediate past chairperson of the ABA Criminal Justice Section, at San Quentin California State Prison, which has custody of 215 persons under California sentence of death.

Section, with the State Justice Institute to analyze special problems with federal habeas procedures. We also will offer our assistance to the new U.S. Judicial Conference committee chaired by Justice Powell that was appointed recently by Chief Justice Rehnquist to study this issue.

The ABA must, however, continue to be a voice of caution. We cannot as a nation of laws sacrifice fairness and lives to expediency. Stripping away due process for those facing the most severe sanction our nation can impose will not solve the problem. We must ensure that efforts to eliminate delay do not compromise effective federal review.

The ABA must also continue to play a critically important role in providing legal representation. The ABA's Post-Conviction Death Penalty Representation Project, since its establishment in 1986, has trained over 500 volunteer attorneys and provided 150 of them to handle death penalty cases. We need to continue and expand these efforts.

It is predicted that the rate at which death penalty judgments will become final will begin to increase rapidly. If it does, the shortfall of defense counsel will become an even more serious problem. We must encourage efforts such as the Project's

National Conference on Death Penalty Resource Planning held last June, as well as more state resource centers such as those made possible by the work of the U.S. Judicial Conference.

Providing effective representation while eliminating unnecessary delay is not our only challenge. At the Toronto meeting, the ABA considered some disturbing statistics regarding the race of the defendant or the victim in capital sentencing. Having considered these statistics, the House of Delegates adopted a resolution supporting "enactment of federal and state legislation which strives to eliminate any racial discrimination in capital cases which may exist." While the explanation for these statistics may be disputed, there can be no dispute that they merit careful examination of whether there is discrimination and, if so, how it may be eliminated.

Our goal must be that our court system provide fair treatment for all, without unnecessary delay, particularly in matters of life and death. This is everyone's responsibility—civil and corporate practitioners, as well as judges, public defenders and the criminal defense bar. If we do not commit sufficient resources to meet this goal, our system of justice will fail. We cannot let that happen. ■

# CRIME AND THE BILL OF RIGHTS: SEPARATING MYTH FROM REALITY

BY ROBERT D. RAVEN

Do certain Bill of Rights decisions frustrate police and prosecutors in their efforts to fight crime? Some charge that the Fourth Amendment's exclusionary rule and the Fifth Amendment's *Miranda* protections go too far, and serve to protect criminals from prosecution. Many members of the general public also share a sense of unease about the effect of these Bill of Rights decisions on society's ability to defend itself. Ironically, the Bill of Rights was the fulfillment of a promise of amendments designed to protect individuals from government abuses that was critical to ratification of the Constitution. As the 1991 Bicentennial of the Bill of Rights approaches, we must examine if these current concerns are based on myth or reality.

Toward that end, the ABA's Criminal Justice Section established in 1986 a special committee to evaluate whether such constitutional protections under our Bill of Rights prevent effective crime control. The Committee on Criminal Justice in a Free Society, chaired by Samuel Dash, Professor at Georgetown University Law Center and former counsel to the Senate Watergate Committee, will release its report this month. Committee members included a federal appeals judge, a defense lawyer, a chief of police, a county district attorney and a state attorney general. Steven Goldblatt, also a law professor and a former prosecutor, is the committee's reporter.

The committee held hearings in three major cities and conducted a methodologically developed opinion poll of nearly 1,000 police officers, prosecutors, defense attorneys, judges and other participants in the criminal justice system. The hearings and survey focused on whether constitutional protections prevented police from solving crimes and frustrated the prosecutor's ability to obtain convictions.

The committee found that the vast majority of prosecutors, police and others interviewed do not believe that these constitutional protections significantly restricted their ability to fight crime. Their opinion was corroborated by the committee's examination of numerous exclusion-



Georgetown University Law Center Professor Samuel Dash, left, chairperson of the ABA Criminal Justice Section's Committee on Criminal Justice in a Free Society, and President Raven at the U.S. Supreme Court discussing the committee's report on crime and the Bill of Rights.

ary rule studies. According to these studies, only 0.6 percent to 2.35 percent of all adult felony arrests are screened out before filing or dismissed by the court because of illegal searches. Indeed, most criminal justice professionals queried responded that the rigors of the exclusionary rule have actually promoted professionalism in police departments across the country.

Similar results were found with regard to the *Miranda* decision, which requires police to inform suspects of their right to counsel and their right to remain silent before conducting a custodial interrogation. The police, prosecutors and others surveyed do not believe that the *Miranda* requirements significantly inhibit effective interrogation or prosecution.

What, then, are the core issues confronting the criminal justice system? The committee report notes that only a small fraction of the serious criminal acts committed in the United States ever enters the system. Out of the estimated 34 million serious crimes committed in the United States in 1986, only 2.5 to 3 million resulted in arrest, and of these, only several hundred thousand led to felony convictions punished by imprisonment. This failure, however, is not due to constitutional restrictions. According to criminal justice profes-

sionals interviewed, it is due in large part to lack of resources. Less than 3 percent of all government spending in the United States went to support all civil and criminal justice activities in fiscal year 1985. Less than 1 percent of all government spending was devoted to operating the nation's correctional system.

In its report, the committee also discusses the inability of law enforcement agencies to cope with the nation's drug problems and the failure of victims to report crimes. The committee will make many recommendations to the Criminal Justice Section, and ultimately to the ABA House of Delegates. Some of these will certainly focus on the role of the bar in increasing public understanding of the Bill of Rights and the criminal justice system.

The committee has already made a significant contribution by examining the charge that the prevention and solution of serious crime is seriously handicapped by constitutional protections. As the committee has documented, that contention is not justified by either the opinion or experience of a representative cross section of police, prosecutors, or others involved with administering criminal justice in this country. That contention apparently is based on myth, not reality. ■

# MAINTAINING A QUALITY JUDICIARY: THE NEED FOR ADEQUATE COMPENSATION

BY ROBERT D. RAVEN

Disturbing results of a recent survey of federal courts of appeal and district court judges warn that we may face a serious problem in attracting and retaining qualified federal judges. This survey, conducted by the American Bar Foundation for the ABA, documents the critical effect compensation is having on our federal judiciary. Twenty-eight percent of the 443 active judges responding stated that they intend to leave the bench earlier than they originally planned. The vast majority cite inadequate compensation as the reason.

Judges, like other public servants, understand that public service will never command the same salaries as the private sector. However, the current differential is so unfair that it has become intolerable for most federal judges. The real value of their salaries has fallen 30 percent since 1969. During that same period, most other wage earners have roughly kept pace with inflation, and private sector executives have experienced significant gains.

Given these trends, it is not surprising that, of the judges surveyed, 81 percent felt that their salary was not adequate to meet their needs and 95 percent felt that their compensation was not appropriate.

Of the judges who intend to shorten the duration of their judicial service, most are between the ages of 53 and 57, with five to eight years of experience on the federal bench. The federal judiciary would be devastated if such an exodus of experienced jurists were to occur.

But it need not. Mindful of the increasing financial disparity between public service and private sectors, particularly at the executive level, Congress in 1967 created a quadrennial statutory mechanism to adjust government salaries. However, the process has thus far produced only sporadic salary adjustments well below those recommended by the quadrennial commissions.

We are at a critical juncture as the 1988 Quadrennial Commission on Executive, Legislative and Judicial Salaries makes its recommendation.



H. William Allen (left), president of the American Bar Foundation, and President Raven review an ABF survey of judges that cites inadequate judicial compensation as a serious problem in attracting and retaining qualified judges.

Congress must act on the urgent need for higher pay levels for the federal judiciary.

We at the ABA have a special obligation to work for greatly improved judicial salaries, and are committing our resources on a priority basis to urge Congress and the President to correct this situation.

Last month I presented testimony to the 1988 Quadrennial Commission urging substantial salary increases for federal judges based on the 1986 Quadrennial Commission's recommendations. These recommendations ranged from \$130,000 for district court judges up to \$175,000 for the Chief Justice of the Supreme Court. The Commission will report by December 15, 1988, to President Reagan, who, before leaving office, must submit salary recommendations to Congress in his final budget submission in January. The recommendation will automatically go into effect in 30 days unless Congress disapproves it.

I ask you to join the Association's leadership in urging President Reagan not to cut the Commission's recommendation. We must also encourage the next Administration to endorse significant increases and Congress to allow such increases to go into effect. It is vitally important

that we not miss this opportunity to increase substantially federal judicial salaries.

In doing so, we will be following the lead of other countries with similar judicial systems and comparable pay setting processes. Judges in Great Britain and Canada are currently being paid significantly more than their counterparts in the United States.

The Lord Chief Justice in Great Britain receives the equivalent of \$145,820; the Canadian Chief Justice, \$134,430. Our Chief Justice is currently paid \$115,000. Similarly, the compensation paid trial court judges equals \$117,170 in Great Britain and \$104,000 in Canada. U.S. District Judges currently earn \$89,500. The inescapable conclusion is that the United States has not yet made the necessary commitment to our justice system.

The problem of inadequate compensation is not unique to the federal system. The ABF survey also polled state judges. Preliminary results suggest a similar problem in our state systems. Federal and state judges must receive compensation commensurate with their great responsibilities if we are to attract and retain the persons necessary to maintain a high quality and independent judiciary. ■

# PROFESSIONALISM: MEETING THE CHALLENGE WITH NEW RESOLVE

BY ROBERT D. RAVEN

"Just another trial lawyer trick" proclaimed the billboard next to the freeway leading into San Francisco. This ad was only one of many in California's recent Proposition 100 campaign regarding insurance law that depicted lawyers as untrustworthy. Although the profession does not deserve this portrayal, the mere fact that advertisers broadly used this approach is disturbing. We must heed President Lincoln's warning that "a universal feeling, whether well or ill founded, cannot be safely ignored."

And it is not being ignored by the American Bar Association or by the legal profession generally. We recognize that the challenge to correct this misperception is not only a matter of public relations, but also of professionalism. Our response must not only publicize the contributions of lawyers to society, but must also demonstrate our commitment to competence, ethical conduct, the justice system and public service. In my 17 months as President-elect and President of the ABA, I have witnessed this commitment in the activities of bar associations both here and abroad. A few years ago, the need to address professionalism issues was not recognized by many lawyers; today, it is nearly a universal concern.

Much of this professionalism activity was stimulated by the 1986 Report of the ABA's Commission on Professionalism, chaired by former ABA President Justin A. Stanley. This excellent report made numerous recommendations for improvement in areas such as teaching ethics, regulating false advertising, continuing legal education, disciplining lawyer misconduct and increasing public service. In 1986, the House of Delegates authorized its dissemination to state and local bar associations and established a special committee to coordinate responses to the report.

This Special Coordinating Committee on Professionalism, chaired initially by John C. Deacon and currently by Mark I. Harrison, has studied each of the Stanley Report's 27 recommendations and developed a



President Raven (left) and Howard H. Vogel, chair of the new ABA Task Force on Outreach to the Public, at the November Board of Governors meeting in Austin, Texas.

ABA/BOB DAEMRICH

specific action plan for their implementation. A professionalism clearinghouse and a speakers bureau for state and local bar associations have already been established. The Committee's new quarterly publication, *The Professional Lawyer*, will publish information about the programs of bar associations, law schools and other organizations in the area of professionalism.

Of course, long-term improvement in professionalism will require effort at every level of the profession. It is heartening that over half of the states and scores of local bar associations have initiated special professionalism activities. These include impressive efforts to increase public service. According to a fall 1987 survey, there are nearly 600 bar-related pro bono and reduced fee programs, with 22 percent (102,000) of all lawyers in private practice participating in such programs. The ABA's Private Bar Involvement Project and numerous other ABA programs offer a wide range of opportunities for lawyers to become involved in public service.

Public service also includes what Chief Justice Rehnquist, speaking recently at the Bicentennial Australian Legal Convention, called the "law-

yer-citizen" role—lawyers as active participants and leaders in our communities. The American Bar Association has established a Task Force on Outreach to the Public to work with other ABA entities and state and local bar associations to develop proposals for a national education program on the justice system and the role of lawyers in society. New efforts must be launched to strengthen our involvement in our communities, whether through adopt-a-school programs, speakers bureaus or other community efforts. While these efforts will necessarily vary with the communities served, they will have the common goals of both educating the public about the legal system and working with the public to improve the system.

These professionalism activities must continue to gain momentum. As retired Chief Justice Burger urged in a recent article on ethics in the law, we must intensify our inquiry into the conduct of the profession and correct any flaws.

It is also appropriate, however, to pause as we begin a new year to tell others both about the progress already made and our resolve to meet the challenge of professionalism. ■

# GOAL IX: MAKING MINORITY PARTICIPATION IN THE PROFESSION A REALITY

BY ROBERT D. RAVEN

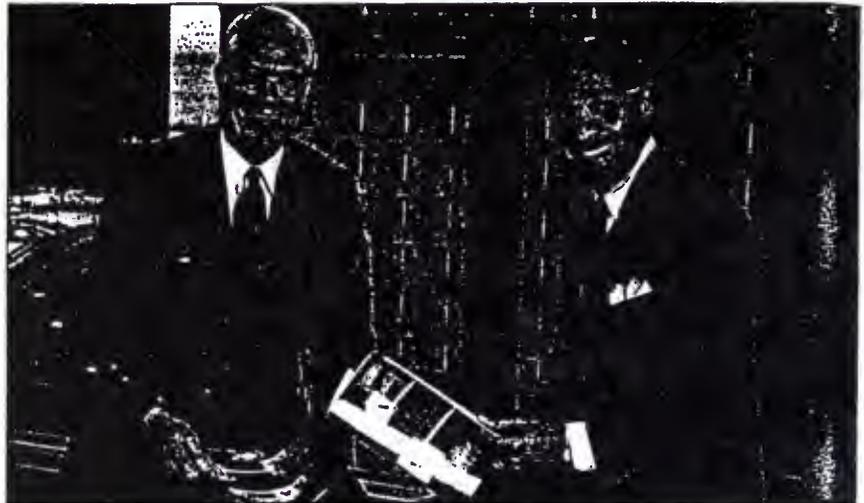
*No segment of society is so strategically positioned to attack minority problems as the legal profession. None has a higher duty to do so.*

These were the words of the 1986 Report by the ABA Task Force on Minorities in the Legal Profession. The ABA accepted the challenge. In February 1986, the ABA adopted its ninth governing goal: "to promote full and equal participation in the profession by women and minorities." This month I report on our Goal IX work toward more minority participation; next month I will focus on efforts on behalf of women lawyers.

The ABA continued the significant work begun by the Task Force on Minorities by creating the Commission on Opportunities for Minorities in the Profession in 1986. This issue's "Your ABA" (page 113) describes some of the Commission's activities under the strong leadership of Michigan Supreme Court Justice Dennis W. Archer, including its national conference last May and the Minority Counsel Demonstration Program. This increased attention to minority participation has already produced important results. For example, General Motors recently announced the creation of a \$500,000 grant program for law schools to assist minority students.

The ABA also has systematically increased minority participation on its committees and in its sections. Appointments of minorities to committees will continue to increase as committee terms are shortened to allow more people to participate. Of the 25 sections and divisions of the ABA, 17 have established special committees or projects to increase minority participation in their work.

Although this is significant progress, much more needs to be done. Minority representation in the ABA House of Delegates remains dismally low, even from large states with large minority populations such as California, Florida, New York and Texas. Experience has taught us that ABA goals can be successfully imple-



President Raven (left) with Dennis W. Archer, chair of the ABA Commission on Opportunities for Minorities in the Profession, reviewing a report on the Commission's national conference held in Dallas last May.

mented only with the support of the organized bar throughout the country. State and local bar associations must adopt the principles of Goal IX to ensure minority representation at the state and local levels and in their delegations to the House. A 1987 survey showed that 23 state and 30 local bar associations had established special programs or committees to increase minority participation; more associations must join this effort.

Barriers to minorities in the profession, as in greater society, were the result of decades of discrimination in both attitude and action. Such barriers can be eliminated only through pervasive and long-term change at every level of the profession. These are not issues for the law schools, law firms or judiciary alone. We need the participation of every individual, every firm and every organization to make Goal IX a reality.

Our efforts must be multipronged and widespread. The ABA and state and local bar associations must accelerate their strategies to increase opportunities for minorities. Our focus must be both internal and external, through projects such as the Task Force on Opportunities for Minorities in the ABA's Judicial Administration Division and the Minority Counsel Demonstration Project.

Law firms must make recruitment and retention of minority lawyers a priority goal. They must apply to this goal the same intensive planning and monitoring they apply to other priorities in their practice.

Attending law school must be made a realistic option for minorities, with support from programs through the Council on Legal Education Opportunity and financial aid from scholarship funds such as the Patricia Roberts Harris Fellowships. There are both the duty and opportunity for bar groups, law firms and individuals to contribute to existing assistance programs or to create their own.

Lawyers must reach out to the minority youth of this country, through adopt-a-school programs or other efforts, to excite them about the role of law in society and the need for their participation.

The challenge is clear; the strategies are diverse. Lawyers by training can be leaders in change and elimination of discrimination in the greater society. However, as Supreme Court Justice Anthony M. Kennedy stated in his address at last year's annual conference of the Hispanic National Bar Association, this promise of a society without racial barriers will only be fulfilled if it first becomes a reality in our profession. ■

# GOAL IX: ACHIEVING EQUAL PARTICIPATION FOR WOMEN IN THE PROFESSION

BY ROBERT D. RAVEN

Last August, the ABA called on members of the legal profession to eliminate all barriers to the full and equal participation of women in the profession. This resolution was passed upon the recommendation of the ABA's Commission on Women in the Profession. That commission was established in 1987 as part of the ABA's strategy to achieve Goal IX: full and equal participation in the profession for minorities and women. Last month, I wrote about the ABA's efforts on behalf of minorities. This month, my focus is on the need to increase opportunities for women in the profession.

The Commission on Women, under the able leadership of Hillary Rodham Clinton, held open hearings at the Midyear Meeting last February on the status of women in the profession. From this testimony and review of numerous reports, surveys and articles, the commission issued its excellent Interim Report, finding that "although women have made significant advancements in gaining access to the practice of law, opportunities in the legal profession remain less available to women, at all levels, than to their male colleagues."

Women are not fully integrated into private law firms. As the Interim Report finds, while 25 percent of all associates in private practice are women, only 6 percent of all partners are women. This percentage is increasing at a rate of only 1 percent per year.

To remove barriers that exist for women in their ranks, law firms must improve their work and benefit policies. Adequate parental leave, particularly crucial for women lawyers who bear children, is a high priority for all lawyers who become new parents. This need for policies addressing a lawyer's parenting responsibilities does not end with the birth of the child. Parents, in particular dual-career couples, also need assistance in providing ongoing care for their children. These are not special needs of women, they are special needs of parents. Day-care benefits, flextime, part-



Hillary Rodham Clinton, chair of the ABA Commission on Women in the Profession, and ABA President Robert D. Raven at the commission's January 1989 meeting in San Diego.

ABA/DWIGHT VALLELEY

time work, and accommodations to allow work at home are part of the new flexibility that law firms must develop to retain their attorneys. While the rate of progress within a firm may change for lawyers who seek flexible work arrangements, the extent of their progress should not be affected. The Commission on Women plans to disseminate model policies for meeting these challenges.

Law firms must also support career development for their young lawyers. We have long accepted that responsibility for men, but many firms still fall short in providing equal support for women. First, law firms must take a stand against sexism in any form within the firm or in dealings with clients, courts or others. Second, law firms must give women attorneys firm-management opportunities that indicate to the community that they have the respect of their peers.

Private practice cannot be our only focus. The glass ceiling blocking women's progress is even more impenetrable in other sectors of the profession: the judiciary, tenured law-school faculty, and the general counsel and management ranks of corporations. We know, unfortunately, that

institutions do not always change because it is the right thing to do. Law firms in part changed because they had to: Barriers to hiring fell because the needs of law firms for well-qualified lawyers expanded and women constituted an increasing percentage of law-school classes. The organized bar must work actively to influence other sectors of the profession to increase opportunities for women.

The ABA needs the help of state and local bar associations in achieving Goal IX. Barriers will fall only through action at every level of the profession and the community. Much activity is already underway. The Commission on Women is compiling a resource directory of these activities to assist other state and local organizations that are willing to become more involved.

In a speech last year, Justice Sandra Day O'Connor stated that "our society as a whole benefits immeasurably" when all persons, regardless of race or gender, have the opportunity to earn respect, responsibility, advancement and remuneration based on ability.

The ABA is committed to creating this opportunity, in the profession and in society.

# WINDS OF CHANGE: COORDINATING OUR RESPONSE

BY ROBERT D. RAVEN

The winds of change are blowing worldwide through the legal profession ... sometimes as a gentle breeze, but more often with gale force. In England and Wales, the Lord Chancellor has made sweeping proposals to eliminate many of the distinctions between solicitor and barrister, to permit lawyers to practice in multidiscipline firms and to allow contingency-fee agreements. In Australia and Canada, the profession is hotly debating the same issues of professionalism that are current in this country. In the Soviet Union, lawyers are creating an independent national bar association. In Europe, lawyers look to 1992 when restrictions to practice in other European Community member states will be largely eliminated.

The winds are no less forceful in this country as we struggle with problems of access to our justice system and the professionalism of our lawyers. New, and often radical, proposals surface daily to change the rights and responsibilities of lawyers.

The list of major issues is long and diverse: multidiscipline firms, contract lawyering, increased autonomy for paraprofessionals, mandatory pro bono, responsibility for skills training, restrictions on the authority of bar associations, private judging and dispute resolution businesses, mandatory continuing legal education, specialty certification, and oversight of the profession by legislative and executive branches rather than the judiciary.

And this is only a partial list. Unfortunately, while these issues ultimately affect the entire profession, our response to them is rarely developed on a profession-wide basis. Our consideration of issues is too often geographically isolated, without benefit of the experience and knowledge of other bar associations that have engaged in similar deliberations.

Legislative attempts to weaken the bars' authority is one area where the profession would benefit from greater coordination. A number of state bars have recently defended against such attempts. While the ABA House passed a resolution at its re-



At the ABA Bar Leadership Institute, President Raven (second from right) discusses emerging issues with (from left) Bert Z. Tigerman, chair, ABA Standing Committee on Bar Activities and Services; Margaret M. Morrow, president, Los Angeles County Bar Association; and A. James Elliott, president, State Bar of Georgia.

cent Midyear Meeting opposing the regulation of law practice by executive or legislative bodies, we need an action plan to assist state bars in responding to such encroachments.

We also must address as a profession the issue of multidiscipline practice. Today, the District of Columbia bar has proposed relaxing restrictions on participation of non-lawyers in law partnerships. Tomorrow, many more states in which there is increasing desire to merge delivery of legal and other services will have to confront the same issue. While the ABA adopted Model Rule 5.4 in 1983 prohibiting certain multidiscipline arrangements, new forms have emerged since then. The ABA again has become involved. We must communicate with state and local bar groups to ensure that this important issue is considered nationwide.

Certainly effective communication among the ABA, national, state and local bar associations already is achieved on many issues. The National Conference of Bar Presidents, the National Association of Bar Executives, the ABA's Standing Committee on Bar Activities and its Division for Bar Services, the ABA State Legislative Clearinghouse, and individual ABA committees, commissions and sections often foster such communication. Their work is to be applauded and continued. But a more organized effort is needed to ensure

profession-wide attention to the most significant proposals for change.

At the Midyear Meeting, President-elect L. Stanley Chauvin Jr., chairman of the ABA's Long-Range Program and Financial Planning Committee, invited more input from state and local bar organizations. Each state's delegation to the House should increase its efforts both to inform relevant ABA entities about significant developments in their states and to keep their states informed about ABA activities. George E. Bushnell Jr., the chairman of the House of Delegates, has asked the Select Committee of the House to recommend a more formal mechanism to foster such issue management.

However we accomplish it, we must get out in front of the major issues. To borrow from John Gardner, former Secretary of the U.S. Department of Health, Education and Welfare, our profession must be shaped by purpose, not historical accident. To do this, we must strengthen the communication among the ABA, national, state and local bars to allow full exchange of information and opinion. We must also work with other professions and non-lawyer groups on critical issues of common interest. The winds of change do not stop at county, state or even national boundaries—and neither should our discussion, debate and plans of action in response to them.

# DISCIPLINARY ENFORCEMENT: TIME FOR RE-EXAMINATION

BY ROBERT D. RAVEN

*After three years of studying lawyer discipline throughout the country, this Committee must report the existence of a scandalous situation that requires the immediate attention of the profession.*

So began the 1970 Report of the ABA's Special Committee on Evaluation of Disciplinary Enforcement, chaired by former Justice Tom Clark. Twenty years later, although many of the deficiencies in lawyer discipline have been corrected, some still remain.

More significant, in the 20 years since the Clark Report, the practicing bar has undergone dramatic change. The profession has doubled in size. Competition among lawyers has intensified. Many more people work with lawyers in delivering legal services, including foreign legal consultants, professionals from other disciplines and paralegals. Lawyer advertising is commonplace. High-volume clinics provide legal services to thousands.

These and other developments create new issues for lawyer discipline. In 1989, we need more than an annual check-up of disciplinary enforcement. It is time for a thorough diagnostic examination.

To this end, the ABA has created a new Commission on the Evaluation of Disciplinary Enforcement, composed of six lawyers and one non-lawyer. Robert B. McKay, a professor at the New York University School of Law and a past president of the Association of the Bar of the City of New York, is chair of the Commission. The first meeting is scheduled for May 6.

The Commission's review will be comprehensive: What are today's challenges for lawyer discipline? Which states have the most effective systems? What new programs and resources are needed? What have the Clark Committee reforms accomplished and what, if any, problems have they created?

A majority of the states have implemented many of the Clark recommendations, such as creating full-time disciplinary counsel, opening proceedings to the public, involving



President Raven (left) discussing the new ABA Commission on the Evaluation of Disciplinary Enforcement with Commission Chair Robert B. McKay.

non-lawyers in discipline and devoting more resources to disciplinary enforcement. Some states, however, have been stragglers, giving lawyer discipline low priority. This situation has prompted some consumer groups to propose reform of disciplinary procedures and, in turn, to challenge self-regulation generally.

Certainly establishing and enforcing codes of conduct are two of the most important responsibilities of self-regulation. In fact, dissatisfaction with lawyer discipline is often at the root of attempts by legislative and executive branches of state and federal government to gain regulatory authority over the profession.

The ABA has steadfastly opposed such attempts, believing that lawyers, like judges, must be protected from the political process. Just as judges must be free to rule on actions by the executive and legislative branches, lawyers must be free to represent politically unpopular clients and causes. It is clear, however, that if we wish to retain the privilege of self-regulation, we must do a better job at self-discipline.

To realize the goals of self-regulation, including maintaining independence and fostering professionalism, lawyers not only must comply with codes of conduct, but must also

stay actively involved in their development and enforcement. We cannot advocate self-regulation and then delegate all responsibility for lawyer discipline to professional staff or a small segment of the profession.

Most states have successfully implemented the Clark Committee recommendation to employ full-time staff to assist in disciplinary enforcement. However, we cannot allow the availability of such staff to create an "out of sight, out of mind" attitude within the practicing bar.

We need the participation of a wide range of lawyers with current practice experience to make disciplinary procedures effective. In addition, each lawyer must take seriously his or her responsibility to report unethical conduct by peers and to ensure that lawyer disciplinary enforcement is sufficient to protect the public.

Inadequate lawyer discipline jeopardizes more than self-regulation. Cynicism about lawyers who breach standards without reproach quickly becomes cynicism about the profession and the justice system as a whole. We will maintain respect for our profession and the system of justice only if we earn the privilege of self-regulation through responsible and effective lawyer discipline.

# ADR: NEW OPTIONS FOR CLIENTS

BY ROBERT D. RAVEN

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The justice system in most of our major cities is in crisis. A complex web of factors has made civil litigation far too costly, time-consuming and uncertain. An overload in criminal cases saps the resources of the entire court system. In this environment, access to justice often is not a reality for anyone—poor, middle-class, wealthy and businesses alike.

Improving this situation will require lawyers and judges to develop new approaches and to acquire new skills to resolve disputes. Alternative dispute resolution, or ADR, offers great promise for improving access to civil justice.

My September president's message addressed one small part of ADR—the use of private judges. I cautioned that we must avoid creating a private system affordable only by a few. Although that remains a concern, I vigorously applaud the flexibility offered by arbitration, mediation, minitrials and other ADR procedures. To realize the promise of ADR, the profession must acquire both the understanding and the skills necessary to use these procedures. (For an overview, see articles on pages 66 to 74.)

Disputes are a part of life. They typically have been handled through courts of varying jurisdictions, following the traditional procedures of complaint, answer, discovery and trial. Common sense tells us, however, that not all disputes are alike and do not require the same procedures. Experience tells us that more than 90 percent of civil cases settle before trial.

The goal of ADR is to provide a choice that allows tailoring the procedures to fit the dispute. ADR will not reduce the number of disputes. Rather, it is a set of procedures for resolving existing disputes more quickly and efficiently. Because ADR typically requires earlier and greater client involvement, earlier settlement is often possible.

ADR mechanisms are now used throughout our business and community life: in insurance disputes and personal-injury cases; in disputes unique to the elderly, families and children; and in matters of everyday life such as disputes among condominium owners and neighbors. Me-



At the Multi-Door Dispute Resolution Division of the D.C. Superior Court are: (From left) Chief Judge Fred Ugast; President Raven; Melinda Ostermeyer, division director; Sidney Sachs of the ABA Standing Committee on Dispute Resolution; and Charles Ruff, president-elect of the D.C. Bar, representing the cooperating entities that launched the program as one of the nation's first.

diation is even being used to resolve some minor criminal matters. Today, there are more than 650 private companies offering dispute resolution services. Over 100 court jurisdictions have some form of court-annexed non-binding arbitration.

Alternative dispute resolution is clearly here to stay. It is time that all lawyers understand it better. ADR options should be added to the checklist of matters discussed with any new client seeking to resolve a dispute. Yet many lawyers in this country remain unprepared to utilize ADR. I believe that this is a result of unfamiliarity, not resistance.

The organized bar has a duty to ensure that high-quality continuing education programs are available to prepare lawyers for effective use of ADR. Lawyers need more than casual familiarity. They must be able to identify those factors that often make ADR attractive, such as the need to preserve an ongoing relationship between the parties or to present technically complex material.

Lawyers also must fully understand and counsel their clients about the limitations of streamlined or less formal procedures. Indeed, it may rise to a level of malpractice to offer arbitration or other procedures to

clients without full information about their restrictions in appeal and other critical aspects.

ADR will never be appropriate for all disputes. There always will be the need for traditional, highly structured litigation. But many areas remain in which greater choice in procedures for resolving disputes will increase access to justice.

The ABA's Standing Committee on Dispute Resolution, chaired by Frank E.A. Sander, has created a directory of nationwide dispute resolution programs and continues to explore new applications for ADR. Among the committee's projects are "multi-door courthouse" programs in which specially trained court personnel review new cases and recommend an ADR procedure when appropriate.

Much of the ABA annual meeting in Honolulu will be devoted to ADR. Presentations will focus on new ways to educate lawyers about ADR, new substantive areas of law appropriate for ADR, and models used in other parts of the world.

ADR is in the mainstream. Every attorney should understand ADR procedures and consider them as options in effective representation of clients.

## A Message From the President

# HOMELESSNESS: LAWYERS JOIN THE FIGHT

BY ROBERT D. RAVEN

"It is a national tragedy of appalling proportions that there are Americans without basic shelter. ..." So stated Jack Kemp upon becoming the new secretary of Housing and Urban Development.

Mr. Kemp is right. And the tragedy reaches greater proportions daily. In the words of Robert Hayes, a former Wall Street lawyer turned full-time advocate for the homeless: "Few issues are more compelling than the issue of survival. There is nothing politically partisan about knowing that it is indecent, that it is wrong for people to live on the streets."

Indeed, lawyers of all persuasions have been moved to action by the human tragedy of homelessness. Using a wide range of skills, they have had significant impact both in changing policy and assisting individuals in need.

Lawyers have caused state and local governments to act after years of indifference to the plight of the homeless. Legal action has forced New York, Los Angeles and numerous other cities to provide emergency shelter to homeless men, women and children. Legal action also has enforced basic levels of sanitation and safety in such shelters across the country.

Lawyers have provided individual representation to prevent homelessness and to alleviate some of its consequences. Legal services programs have long assisted such individuals for years in fighting eviction, securing administrative benefits and obtaining medical care. Today the private bar has joined the effort in great numbers.

From Philadelphia to Miami to San Francisco, over 30 state and local bar associations have established programs that organize and train lawyers in private practice to provide pro bono representation to homeless individuals. In most of these programs, lawyers meet at shelters and soup kitchens with homeless people with legal claims and undertake representation to enforce their rights.

The ABA's Representation of the Homeless Project provides support to many of these bar programs and to



President Raven (center) in Washington, D.C., with co-chairs (from left) Paul L. Friedman and David Crosland of the ABA's Representation of the Homeless Project, discussing the project's pro bono mobilization efforts.

many more just getting underway. It has compiled a directory describing these projects.

The Young Lawyers Division also has actively encouraged its affiliates to begin programs to serve the homeless, particularly in partnership with the medical profession.

Litigation is not the only weapon in the fight against homelessness. As David Crosland, co-chair with Paul L. Friedman of the ABA's Homeless Project, testified to Congress in March: "It is now undisputed that the increasing scarcity of low- and moderate-income housing is a major cause of homelessness. ... It has long been part of the American dream that if wage earners work hard and well, they can feed, clothe and house their families. This is no longer true."

Given this great need for affordable housing, lawyers practicing in real estate, tax, corporation, regulatory and administrative law can provide significant assistance. Many have responded to the call. In Boston, for example, the Lawyers' Clearinghouse on Affordable Housing and Homelessness refers non-profit housing development corporations and shelter providers to lawyers willing to represent them pro bono.

Response to the homelessness tragedy has demonstrated the many ways in which lawyers and other volunteers can make a difference, regardless of their areas of expertise. It also has shown, however, that vol-

unteer effort will never be enough.

Long-term solutions will undoubtedly depend on giving new priority to federal spending for low- and moderate-income housing. In 1986 and 1987, this spending totaled \$5 billion less than the tax benefits extended to homeowners.

We need a more equitable arrangement to meet both the needs of homeowners and those of the poor and homeless. Bar associations and other voluntary groups throughout the country will continue to assist in fighting homelessness, but long-term solutions will require more government involvement.

The profession's response to homelessness mirrors its experience in addressing a number of other important needs of society, such as the legal needs of the poor, including criminal defense representation. Lawyers' pro bono work provides valuable assistance to thousands of individuals and organizations. It compensates lawyers with a sense of meaningful achievement and immeasurable satisfaction. It allows them to fulfill their professional obligation to serve the public.

Perhaps most important, however, pro bono efforts focus the attention of all citizens on those issues to which they, through their government and businesses, must attend.

And certainly homelessness is an issue that deserves our nation's priority.

## SHAPING THE FUTURE: A NEED FOR RESTRUCTURING?

BY ROBERT D. RAVEN

At the close of the ABA Annual Meeting in Honolulu, I will pass the gavel of leadership to my good friend, L. Stanley Chauvin Jr. He will be an able, innovative and forceful president. The Association will be in excellent hands.

As I complete my term, I take this opportunity to make some observations about how we, as an organization, might increase our capacity to lead in this era of great change. As all of us know, the profession has experienced more change in the last 15 years than in the previous 100 years.

In the April President's Message, I urged that we work more with state and local bar groups to get out in front of the major, fast-breaking issues. The Long Range Program and Financial Planning Committee should identify most of these. But coordination of a timely response may require not only more participation with other groups, but a thorough re-examination of the internal organization of the ABA.

As I have said on several occasions, the ABA is best described not as a large battleship, but rather as a flotilla of smaller, yet substantial, ships—each with its own captain. The various ABA groups are distinct bases of expertise, membership and interests. We must ensure, as change surrounds us, that our organizational structure provides for a view of the whole and strategic leadership as an Association.

As Peter Drucker, the management expert, states in his recent book, "The New Realities," we are in an age of information-based organizations. The challenge for management is how to give a common vision to an organization of specialties.

We do not always meet this challenge at the Association. Too often issues with professionwide significance are addressed by only one or two sections or committees. Too often the ABA, as an entity, misses an opportunity to lead public debate and effort on issues essential to the rule of law and improvement of the justice system.

There are many examples. One is our need to address the multi-



ABA President Raven (right) and President-elect L. Stanley Chauvin Jr. at the June ABA Board of Governors meeting in Vancouver, B.C.

professions practice question about which I wrote in April. Another example is our input to the American Law Institute's examination of the corporate governance issue. Here, our Business Law Section, and to some extent the Litigation Section, became involved in the ALI's Restatement. The issue also was important, however, for the ABA and many of its other entities.

There are also law-related issues that significantly impact our society and way of government. Our Association has both the opportunity and responsibility to focus public attention on them. For example, the profession is uniquely positioned to lead public discussion about our criminal justice policy. Our Criminal Justice Section's recent report, "Criminal Justice in Crisis," is an excellent statement of the issues. But improvement of the criminal justice system is a societal imperative that the ABA might well expand from a section project to an Association priority.

We face an organizational challenge. How can we provide for ongoing identification of those issues now percolating at a local or section level that potentially have great sig-

nificance for the entire profession and society? How can the ABA be structured to ensure associationwide attention to such issues, and to coordinate the debate and resolution of them? Which individuals, committees or entities will have both the time and the responsibility to regularly review the big picture? How can their work be assisted?

As a first step to answering these questions, we should review the current roles and functions of the officers, Board of Governors, board committees, House of Delegates, sections and divisions, Conference of Section Chairs, standing and special committees, staff components and affiliated organizations. With change surrounding us, it is likely that the Association's governance structure also must change.

Lawyers are trained for detail and caution. We, like others, often are most comfortable traveling familiar routes, making minor adjustments. But we must also maintain an organization that can change direction and chart new courses. Only then can the Association provide the visionary leadership of which it is eminently capable, and which is required in this time of tremendous change. ■

## APPENDIX J

# *The Boalt Hall Transcript*

Fall/Winter 1988 Vol. 21, No. 2



**New ABA President: Robert Raven, Boalt '52**  
**Four Boalt Hall Faculty Members Retire and a**  
**Record Number of New Faculty Arrive**

# The Making of the President (ABA): Robert Raven



*Robert D. Raven, President, American Bar Association.*

Bob Raven (Boalt '52) having moved through the chairs, is now President of the American Bar Association, the second ABA President from California in modern times and the first Boalt graduate to be so honored.

He is not the first in his class to achieve national notice. Bill Miller (whom Bob remembers pitching pennies on the steps of the old Boalt Hall) was Chairman of the Federal Reserve Board and Secretary of the Treasury; Bill Bagley was Chairman of the Commodity Futures Trading Commission, and Lowell Jensen was Deputy Attorney General of the U.S. before he came home to become a U.S. District Judge in San Francisco.

Bob was 17 when he graduated from high school in rural Michigan. On graduation day in 1941 he milked his last cow and went off to work in Detroit and Lansing building aircraft engines at 85¢ an hour. Shortly after Pearl Harbor he enlisted in the

Air Force, bounced around the country including a brief stretch in the Bay Area, and ended up as a gunner-engineer flying missions in B-24's in the Pacific.

Bob went back to Michigan after the war and with the aid of the GI Bill enrolled at Michigan State. The GI Bill was important to Bob; without it he is confident that he would never have gone to college—his father hadn't and most of his siblings did not.

While in college Bob married his childhood sweetheart, Kay, who also had spent the war years in the service as a sergeant in the Marines, much of the time in Southern California. Their wartime exposure to California led Bob to apply to Boalt. In all innocence, the Ravens landed in Berkeley in the fall of 1949, possessed of little more than a very used car and \$100 in cash.

Kay took a job in the documents department in

the main library, and their first child was born while Bob was in his third year.

Immediately on graduation Bob took a job with what is now Morrison & Foerster in San Francisco (at \$325 a month) and he has been there ever since. (He did take a month off, without pay, to study for the bar.) Bob was the 17th lawyer in the firm when he joined and for the next 10 years the firm grew very slowly. Sensing that Morrison was losing out to other firms growing more rapidly, Bob and a few of his partners had a famous lunch at Schroeder's, and as a result the firm suddenly turned itself around. Since then it has grown very rapidly; it now has over 370 lawyers with large offices in a half dozen cities.

Bob is intensely proud of his role in building the Morrison firm, although in talking about it he always gives credit to others. It is never "I did this," it is always "We," usually with names. (Even when quoting from a speech he gave, Bob tells you who wrote the first draft.) It is a disarming trait; it is also frequently misleading. In truth, according to his partners, Bob was often the instigator and though he always enlisted the help of others and listened closely to their views, he alone deserves much of the credit for what the Morrison firm is today.

The practice has, obviously, changed since the early '50s. Bob remembers his senior partners telling him not to worry about getting clients—that was their job which they did for the most part at lunch with the presidents of banks and other large corporations. He also remembers being cheered up by his senior partner after losing a big case on appeal they had won at trial. "Your job is to do your best," Mr. Clark told him. "The judge has to decide who is right. The client has no business complaining if you did a good job. More often than not the judge will be right."

Homilies like that are meaningful to Bob. He remembers Professor William Laube telling the class that "Lawyers are the oil cans of society, they cool things down, make them run smoothly." He recalls sitting in Professor James McBaine's office talking to him about nothing of consequence when someone stuck his head in and McBaine said, "I can't talk to you now, Roger, I'm busy with a student." Fifteen minutes later there was another knock—and an even more impatient McBaine telling "Roger" to leave him alone. Of course, as Raven later learned, Roger was McBaine's former colleague, at that time Justice Roger Traynor.

Professor Barbara Armstrong had a somewhat different attitude towards Traynor. When Bob had the temerity to suggest to her that a recent Traynor opinion was wrong on a rather narrow technical point that Bob knew something about because he was writing a law review note on the subject, she rather stiffly told him that it was impossible for Justice Traynor to be wrong on such a matter. Later, without acknowledging the earlier conver-



*Robert Raven. United States Air Force.*



*Bob and Kay. 1978.*

sation she asked to see Bob's notes, and not long thereafter somehow the opinion was substantially revised. Professor Armstrong never said a word to Bob about the matter.

Raven was at Boalt in the early years of the Deanship of William Prosser; his was the first class to graduate from the "new" Boalt Hall after the school moved from the center of campus; he was in Professor Henry Ballentine's last class and Professor Richard Jennings' first class in corporate law. Professor Albert Ehrenzweig taught the first year Introduction to Law; Professors Frank Newman and Edward Barrett were the young Turks. Bob remembers each of them for something: Barrett, for never telling the class what he thought but always pushing students to come to their own answers; Newman, for teaching advocacy by constantly persuading the class they were wrong even

if their error was precisely the position Newman had taken the day before. The professor Bob remembers with the most affection was McBaine who assumed the class knew the basics and spent all the time in class playing with problems on the periphery. No doubt nostalgia has somewhat improved on the reality of his legal education, but Bob's memories reveal clearly what he thinks law schools should do.

Raven firmly believes legal education should not stop with the bar exam. He remembers with affection the time old Mr. Clark spent teaching him at the Morrison firm. Bob has led the firm to establish quite elaborate in-house training programs for all lawyers, not just the newest. When the Morrison firm recently moved to new quarters, Bob tried (unsuccessfully) to persuade his partners to include a classroom in the building plans. It is characteristically self-effacing of Bob to talk as much about his failures as his successes.

As a bar leader, Bob is worried about the number of lawyers who start out in practice by themselves lacking the support of a mentor such as he had in Mr. Clark. Mandatory continuing legal education and even, perhaps, some requirement of skills training in the law schools are ideas he is inclined to support.

It would be tedious to list all the bar committees Bob has served on or chaired. He was President of the San Francisco Bar Association in 1971 (he got there by a bit of a coup over the S.F. legal establishment), President of the California State Bar in 1981, and is now President of the ABA. His election to the presidency of the State Bar was notable in that the Board of Governors was evenly

divided over whom they wished to be President, Bob or William Wenke of Newport Beach. Neither side would yield, so that the final resolution was to give each a half-year term. It was the type of ingenious solution that usually ends in disaster; it didn't in this instance because Wenke and Raven worked well together, in substance acting as a team throughout the year.

What does Bob think of as his major accomplishments as President of the State Bar? He cites three:

First, and perhaps most impressive, was organizing the California end of the ABA's march on Washington to keep alive the Legal Services Corporation. That was a battle President Reagan thought he had finally won; Professor Richard Buxbaum, who was in the middle of it and in a good position to observe, gives Raven much of the credit for keeping the Legal Services Corporation alive.

Second, Bob pushed hard on the Board of Governors and lobbied the legislature to pass the California form of IOLTA (interest on lawyer trust accounts) which this year will distribute \$15.6 million to support legal services for the indigent. Bob quickly gives credit to others for the idea, but we all agree that it was his leadership that led to acceptance of the idea within the Bar and passage of the necessary legislation in Sacramento, especially its mandatory form. Bob freely concedes that \$15 million is not a lot measured against the need, but it surely is not insubstantial.

Finally, the Board of Governors at Bob's urging established a new standing committee of the State Bar on Ethnic and Minority Relations charged to

*Law student Raven (second from right, top row) with his fraternity brothers.*



"study and report on the status and participation of minorities in State Bar activities and the legal profession."

What does Bob want to accomplish as President of the ABA? Essentially more of the same. His theme for the year will be "fair, effective, affordable legal services." He expects the new administration in Washington to support increased funding for the Legal Services Corporation and he hopes to persuade state and local governments to pick up some of the cost of providing adequate legal services for those who cannot afford them. He also wants to work on reducing the cost of legal services by both procedural and substantive changes in the law. He will continue to press for improved access for minorities and women within the profession.

As President-Elect he has already started on the last effort by persuading the Board of Governors to change the rules on the tenure of members of ABA Committees. In the past the normal term of a committee member was three years with one option to renew. That meant as a practical matter that most people served for six years. Bob's proposal is to allow only one three-year term. The effect will be to enlarge participation by roughly doubling the number of vacancies a President can fill in a year. As far as Bob is concerned that means more openings for minorities and women. It is a typical Raven maneuver, quiet but effective, that in a relatively short space of time can make a significant difference, assuming his successors share his convictions.

Bob is very aware of the differences between the presidency of the State Bar and the ABA. At the state level Bob had the feeling, after two years as a member of the Board of Governors, that he had a pretty good command of what was going on throughout the organization. The ABA is roughly four times as big and too diverse for any President to know what is going on everywhere. He expects to spend much of his time being surprised at all the things the organization he supposedly heads is doing. The ABA, of course, does not have to depend as the State Bar does on the legislature for its lifeblood, the annual or biennial dues bill.

But Bob remembers some very tense moments before the U.S. Senate Judiciary Committee when he was Chairman of the ABA's Judicial Screening Committee telling Senators that their candidates for the federal bench were unqualified for the post. In general, Bob thinks the process works pretty well and he has watched the appointment of a lot of judges at both the state and federal level by Presidents and Governors of both parties. He acknowledges that the bar's classification "qualified" is perhaps too broad (but he sees no realistic way to narrow it); he thinks the organized bar's role in the process is both crucial and thankless (but again that seems to him unavoidable). On the whole, however, and most the time, he thinks those



*Robert Raven addresses a Boalt Hall alumni gathering in August 1987*

responsible for judicial appointments have done about as well as could be asked.

What gives Bob the greatest pleasure in retrospect is the number of times he has waited on a Senator with a fearsome reputation for exploding when crossed, confident that he was about to provoke a storm of controversy when the Senator learned that the ABA thought his candidate unqualified, only to leave the Senator's office unbloodied and without a whisper of unfavorable publicity for the ABA. Bob attributes that to the increasing understanding within the Senate of the ABA's role; it hasn't apparently occurred to him that his own quiet, confident but respectful way of presenting a matter may have something to do with it.

Probably there is somewhere some crabbed and unhappy soul who doesn't like and admire Bob Raven. Boalt Hall cannot claim credit for his sterling character. But Bob would be the first to acknowledge that his deep convictions about access to legal services for the poor and equal opportunity for minorities in the legal profession reflect at least in part his own experience with the GI Bill and public higher education at Michigan State and Boalt Hall.

There is every reason to expect great things from President Robert Raven.

Preble Stolz  
Professor of Law  
Rebecca Byrnes  
Reference Librarian

## APPENDIX K

## PRESIDENT'S REPORT

# A Tribute to Bob Raven

by Peter G. Keane

When this year as BASF President is over, one of the most satisfying memories will be the May 15 luncheon tribute to Bob Raven.

Our television-besotted culture has cheapened language; nothing shows this more than the way we overuse superlatives. Nevertheless, it is not possible to write about Raven without piling on superlatives. He is an amazing guy who is the stuff of legends, but the legends, which indeed exist, are accurate and even understated. Twenty years ago he radically altered the face of San Francisco's legal scene; then he went on to have a similar impact upon the dynamics of the legal profession both statewide and nationally.

It is unlikely that I would be President of the Bar Association of San Francisco if it had not been for Raven. Before his own BASF presidency the odds on a public lawyer, and a public defender at that, as BASF President were about equal to the odds on George Bush applying for membership in the ACLU. Without Raven it would have been considerably more difficult for women such as Joanne Garvey and Judy McKelvey, or for an Asian like Mike Lee who will succeed me next year, to be BASF presidents.

Up until 1969, the leadership of the Bar Association of San Francisco was a cozy but somewhat somnolent cluster of drinking buddies. The Bar was literally a "bar." BASF's 21st floor headquarters in the Mills Building was a saloon, complete with a bartender. It was the watering hole of San Francisco's legal establishment and its most intense activities were afternoon domino games played by a collection of senior partners from the town's major firms, who gathered for an early start on their nightly martini buzz.

BASF was a comfortable, insular world — for those who were on the inside. But very few were on the inside. Only a narrow slice of San Francisco's legal community had any say in the affairs of the organization. The Association was dominated by that same handful of characters who plunked down stem glasses and dominoes each afternoon. They were a

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**BASF was a comfortable, insular world—for those who were on the inside.**

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self-perpetuating lot who handpicked the Association's officers on a rotating basis. They were all males, all caucasians, and all of conservative bent in the way they ran their firms, practiced law, and in their political and social outlooks on the rest of the world.

Prior to Raven BASF paid little, if any, attention to injustices in our society. At best the needs of the underdog, if they ever came up, might rate a paternalistic "Tsk, Tsk." By contrast, one of the hallmarks of BASF today and the quality which makes it stand out, which endears it to many and enrages others, is that it is an activist, progressive association that cares deeply for the powerless and vigorously champions their causes.

Indeed, BASF effectively focuses enormous amounts of the creative energies of its members on those causes. The Association's soul is revealed in activities like the fight for basic due process and a semblance of dignity for the legions of homeless people who have redefined the urban landscape of San Francisco from Herb Caen's

quaint "Baghdad on the Bay" to a bleakness resembling Mother Theresa's Calcutta. BASF means taking care of the legal needs of people dying of AIDS. It means voluntary legal services projects for those who otherwise could never even conceive of, much less afford, a lawyer to assist with their legal problems.

But BASF was not always the way it is now.

In 1969, Raven challenged that old guard which had traditionally determined BASF leadership. Until his challenge, one became the Association's president only after passing muster among those entrenched powers. The rule of the game was that a potential president first got the imprimatur of the old boy network. Then the heir-apparent quietly (emphasize the word *quietly*) moved from the board of directors, through the officer chairs, until a puff of white smoke above Montgomery Street signalled that his turn had come.

A group of San Francisco lawyers, who bridled and chafed at the languid torpor of the Association under the old guard, challenged the status quo. Raven was their standard bearer. He bypassed all the traditional rigmarole and ran directly for President-Elect. He won. And the Bar Association of San Francisco has never been the same since.

Raven's tenure as president established that strong tradition of BASF activism and progressivism which is still the prime moving force of the Association twenty years after his presidency. He breathed life into BASF. He changed it from a bloodless



Charles Clifford, David Balabanian, Bob Raven and Mel Goldman.



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**Background Information:**

- Consultant, independent and agreed medical examiner and disability evaluator for attorneys, medical and chiropractic practitioners, and the insurance industry.
- Published numerous articles in area of expertise.
- Past faculty member with Palmer College of Chiropractic-West, Life Chiropractic College-West, Cleveland Chiropractic College, and past post-graduate faculty member with LACC for chiropractic orthopedic certification program.

honestly said what was on his mind, and yet despite his outspoken candor, he has still kept going forward to higher positions of influence and leadership in the legal profession. He became President of the State Bar of California in 1980. Of course, he did that in his characteristic, non-traditional fashion. He ran a dead tie with his opponent in the election. As Clifford said, "He ran for the State Bar Presidency and he did not lose." Nobody in the State Bar had the foggiest notion of what to do with a tie vote. There never had been one before. The matter was finally resolved with Raven splitting the one-year presidency with his opponent.

It's unfortunate the State Bar got him for only six months. All of California's lawyers were short-changed by that truncated term. However, even in that brief period, he was able to shake up the organization and force it to address many of the problems which it had long ignored.

Raven's progressive, imaginative brush found its broadest stroke during this past year as President of the American Bar Association. He will be remembered best for the vigorous and unrelenting counter-attacks which he led against the Reagan administration's vicious battle to eliminate legal services for poor people in the United States.

One could not draw a sharper distinction between two more opposing philosophies regarding the treatment of the powerless in America, than between Raven's humane idealism on the one hand and the national administration's cold mentality of "Let them eat cake" on the other hand. As David Balabanian said at the luncheon:

"Bob Raven looked out and, like George Bush, he too saw a thousand points of lights. But the lights he saw were the campfires of the homeless everywhere in our nation."

The merciless juggernaut by Ronald Reagan's Legal Services Corporation against poor people has been so vehement that one can only wonder why the members of that board feel so personally threatened by the idea of due process or equal protection for anyone below the level of the middle class. This year, as BASF President, I dealt with LSC auditors dispatched from Washington to San Francisco. I found them to be little more than traveling hit men whose assignment was to damage, and if possible to destroy, our local legal service programs.

Raven stood up to Washington and fought it out with them. His presence and his testimony before Congress were par-

**All of California's lawyers were short-changed by that truncated term.**

ricularly effective, since it was difficult to dismiss such a grey eminence and senior partner of a high-powered law firm as simply another anti-establishment Bolshevik. His thoughtful eloquence for the increasing number of victims of our shameful, benign neglect will be remembered long after this decade's temporary ride of national selfishness has receded.

I was particularly pleased, as a public defender, that Raven chose the criminal justice system as the subject of his speech at the luncheon. He went straight to the core issue which other self-proclaimed experts on crime tiptoe around, that is, the present system of criminal justice in the United States is a national disgrace.

He made clear at the outset that this speech would not be the standard law and order pap of politicians. We have watched a generation of politicians, from George Wallace through Ronald Reagan, George Deukmejian, and George Bush, who nurtured successful political careers by declaring themselves Messiahs with gospel formulas to eliminate crime. Their simplistic rhetoric all boils down to an assertion that crime exists because we are misguided enough to continue to follow the constitutional protections in the Bill of Rights. The proposed cures are to abolish the protections, to lock millions of people up in prisons forever, or even better yet—to execute those people. It is this nonsense, packaged as wisdom, which has brought about the mess which our criminal justice system is in now.

Raven pointed out the illogic of the "law and order" philosophy. It demands that the criminal justice system be an efficient conveyor belt that feeds more and more bodies into the maw of prisons. Yet, at the same time it is unwilling to provide the money for the courts, judges, prosecutors, defenders, or police which are necessary to carry out even the most basic needs of the system. Raven reminded his lawyer audience of what is quite clear to all lawyers: that the terminally-exhausted criminal justice system is fast crowding out the ability of the courts to deal with civil matters and as a result the entire process is perilously close to gridlock.

Raven's message was a seldom heard, but common sense challenge to the idiotic philosophy of "just lock 'em all up" which is the current conventional wisdom on

## APPENDIX L

REMARKS BYROBERT D. RAVENFEBRUARY 8, 1993 - BOSTON, MASSACHUSETTS

BEFORE  
THE HOUSE OF DELEGATES  
UPON ADOPTION OF R101 CREATING A  
DISPUTE RESOLUTION SECTION  
IN THE  
AMERICAN BAR ASSOCIATION

The growth and acceptance of ADR is illustrated by the history of the ABA Standing Committee on Dispute Resolution. About seventeen years ago the Committee came into existence as the Special Committee on the Resolution of Minor Disputes. The Committee had rapid name changes which reflect the growth of ADR. It soon became the Special Committee on Alternative Dispute Resolution and then in 1987 became the Standing Committee on Dispute Resolution. And now it is my privilege to ask you to create a Section of Dispute Resolution. Over five thousand lawyers and associates have signed declarations of intent to join the new section, and the Board of Governors recommended approval of the Standing Committee's resolution to become a section with only one dissenting vote. SCOPE unanimously approved creation of the section.

Three years ago at the first Frank Sander Lecture I noted the growth of ADR. I said: "Corporate law offices and law firms are frantically bringing their lawyers up to speed in dispute resolution knowledge and techniques. Private providers of dispute resolution neutrals are flourishing and going public. Lawyers are leaving law firms to join, or compete with, the established dispute resolution providers. It is a rare day that one of the many legal newspapers or periodicals does not have an article reflecting the growth and popularity of what continues to be referred to as ADR." Since 1990 that rapid growth continued at an accelerated pace.

Both federal and state courts are busy expanding court-annexed dispute resolution. These programs are rapidly expanding both in scope of ADR procedures offered and in the number of courts involved.

Court congestion has not only spurred the use of court annexed ADR, but it has also contributed to the truly phenomenal growth of ADR outside the court system. The executive and legislative branches of our federal government have become ADR sponsors and users.

Although the growth of ADR in the court system and government agencies has been impressive, the growth of ADR supplied by private providers outside the court system has been even more astounding.

The American Arbitration Association, which has supplied arbitrators and administered forums for many years, has faced greatly increased demands for its services and has doubled its caseload in recent years.

The Center for Public Resources is a large and important supplier of dispute resolution literature, educational and training seminars and arbitrators and mediators. CPR has concentrated on corporate America, and law firms. Its corporate and law office pledges have been accepted by the leading corporations and law firms in the country. Six hundred of the nations largest companies (and their subsidiaries), which account for over one-half the gross national product, have signed the corporate pledge. Fourteen hundred and twenty-five (1,425 law firms have signed the law firm pledge, including 400 of the 500 largest law firms.

Although part of the impetus for increased ADR is caused by the congested courts, a more powerful force is that many clients and an increasing number of lawyers are convinced that if a court precedent is not needed and there is no other need for a court judgment, an appropriate ADR process is often the better forum in which to resolve the dispute.

The pent up ADR energy and urge to become part of ADR is reflected in over 5,000 declarations of intent to join the new ADR Section. Forty-six percent or 2,318 of those 5,000 applications are not presently members of the ABA. I predict that the growth rate of the new ADR Section will be similar to the phenomenal growth experience by the Litigation Section after it was authorized by the House of Delegates. The Litigation Section was authorized over objections very parallel to those being raised now with reference to the proposed ADR Section.

All but five state bars have an ADR Section or Committee. The ADR section of Texas is the third largest section in Texas. Another persuasive indicator of the

appeal of ADR is the fact that with the help of the Standing Committee, twenty-four ADR committees have been formed in 24 ABA Sections, committee, conferences or forums. Many of these current committees have been handicapped by lack of funds, but several are strong and viable. Some of those are the committees in litigation, TIPS, administrative law, labor, general practice and YLD.

The new section would not interfere or compete with the other ABA ADR committees. Indeed, the new section would help the committees of the sections and other committees through an advisory committee of the new section which would consist of members from each of the ABA/ADR committees. The advisory committee would also appoint four of the ADR Section council members.

The new section would not compete with the committees, because the new section would primarily concentrate on the generic issues of ADR while the committees would concentrate on the application of ADR to their section specialties. Some of these generic issues are:

- Serving the needs of section members for information and advise on the various areas of ADR practice.
- Co-sponsoring, when requested to do so, with other ABA committees educational seminars and training programs for both advocates and neutrals in the usage of ADR.
- Publish a professional journal on ADR.
- Coordinating all requests from government for the ABA to express its views on proposed ADR legislation and policies. Non-ABA entities will not want to interface with twenty-five ABA committees. The section would route the request to the proper ADR committee unless it involved generic issues.
- Maintaining the ABA national dispute resolution resource center clearinghouse and database.
- Compiling and publishing biennially a federal and state dispute resolution

legislative monograph and providing technical assistance to legislators in crafting ADR bills.

- Cooperating with other organizations in the field to maintain standards of conduct for mediators and arbitrators.
- Compiling and publishing biennially a monograph on federal and state local court rules on dispute resolution.
- Publishing "how-to" handbooks such as: How to incorporate ADR into your law practice; how to advise and represent your client in an ADR session; etc.
- Surveying the ADR activities of state and local bar associations and publishing a directory that profiles their activities.
- Publishing a directory of dispute resolution programs.
- Maintaining cooperative relations with national, non-profit, dispute resolution entities, i.e., the American Arbitration Association, the Center for Public Resources, the National Institute for Dispute Resolution, and the Society of Professionals in Dispute Resolution.

The twenty-four ADR committees from the other sections, conferences, committees and forums have in the past, and presumably will continue to, focus on the application of ADR to their respective specialty field of practice, such as litigation, administrative law, employment law and so on.

With such a structure, the ABA will be positioned to be the central national player in dispute resolution. The ABA will be a strong advocate for a properly funded state and federal judiciary which can adjudicate those disputes which require a court adjudication.

If the dispute is one that the clients wish resolved in some ADR forum, the ABA will be leading the way in seeing that those disputes are resolved in a fair and expeditious manner.

## APPENDIX M

**CHAIR'S PAGE**  
**ROBERT D. RAVEN**

The formation of the new ABA Section represents a new stage in the history of dispute resolution. Once relegated to the fringes of law practice, today alternatives to court-based adjudication occupy a central role in resolving the full spectrum of disputes -- from criminal offenses to international conflicts. This occasion prompts a degree of reflection, about where we have been in the dispute resolution field and the challenges that lie ahead.

In 1976, the ABA co-sponsored the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice (the "Pound Conference"). The conference had as one of its goals to improve the administration of justice through the development of effective alternatives to traditional adjudication. Perhaps the most creative and far-reaching proposal that emerged out of the conference was the "multi-door courthouse." The principle behind the multi-door proposal was that different types of disputes were amenable to specific methods of resolution. The challenge, therefore, was to create an integrated dispute resolution center. Instead of just one "door" leading to the courtroom, individuals would be offered a variety of options to resolve their dispute, including mediation, arbitration, malpractice screening boards, and ombudsman services. In response to the Pound Conference, in June 1976, the ABA created the Special Committee on Resolution of Minor Disputes to study existing methods of dispute resolution of smaller claims, identify processes which appeared to be prompt and effective, and draw up new approaches where desirable.

In 1986, the ABA elevated the Special Committee to a Standing Committee. The purpose of the Standing Committee was to

go beyond monitoring existing programs and to promote, research, evaluate, and experiment with the wide range of dispute resolution practices. Under the leadership of Professor Frank Sander of Harvard Law School, the Committee's principal project was the design of the Multi-Door Courthouse/Dispute Resolution Centers in Washington D.C., Tulsa, Oklahoma, and Houston, Texas. Consistent with the conceptual proposal presented at the Pound Conference, the project applied a number of dispute resolution processes to a wide spectrum of cases and encouraged the use of community centers as providers of mediators.

The 1980s witnessed an explosive growth in the number of private providers of dispute resolution services and the types of services they offered. Leading this growth was the American Arbitration Association, the Center for Public Resources, Endispute, Judicate, Judicial Arbitration and Mediation Services (JAMS), U.S. Arbitration and Mediation, Inc. (USAM). Initially dominated by arbitration, during the 1980s these organizations began to offer a wide range of dispute resolution processes and hybrids. As a result, parties today are confronted not only with the question of which provider but what technique or "product" they should select.

At the same time, federal and state courts were increasingly turning to court-annexed arbitration, mediation, early-neutral evaluation, and summary jury trial programs. The purpose of these programs was to provide parties who could not afford (or justify) the cost of the full preparation and participation in a jury trial (and/or who could wait until the court could provide such a trial) with the early equivalent of a day in court and a meaningful hearing.

The ABA Standing Committee recognized that, if it were going to continue to play a leadership role in dispute

resolution, it needed to take the final institutional step and become a section. This was accomplished in 1993.

While the search for ways of resolving disputes has been on-going since conflicts between people arose, the recent emergence of dispute resolution techniques offered through the courts and private providers, however, presents a significant opportunity to transform the legal world. In order to see dispute resolution methods fully integrated into the mainstream of the justice system, however, a number of pivotal issues will need to be addressed by the newly-created ABA Section and other dispute resolution groups.

Court-annexed Dispute Resolution. Dispute resolution has grown within the courts, but not at the rate one might wish. Moreover, some of the data we have seen regarding court-annexed arbitration is discouraging. Statistics show that court cases being settled by court-annexed dispute resolution procedures often occur months after the case is filed. These statistics further indicate that many of the cases disposed of by arbitration might have settled just as early, without dispute resolution intervention. A Rand Corporation study of court-annexed arbitration shows that the length of time for disposition in court-annexed arbitration versus trial was virtually identical, and the courts' cost to administer the program was the same. These findings underscore the importance of evaluating court-annexed dispute resolution programs thoroughly and crafting procedures which maximize the possibility for an early resolution before parties have engaged in extensive discovery.

Dispute Resolution and the Federal Government. Two legislative developments, the Administrative Dispute Resolution Act (ADRA) and the Negotiated Rulemaking Act, have dramatically altered the way in which federal administrative agencies and

departments may resolve disputes by encouraging the use of ADR procedures and methods. In addition, Executive Order 12866 directs agencies to "explore, and where appropriate, use consensual mechanisms for developing regulations." Executive Order 12866 was the outgrowth of the National Performance Review's dispute resolution recommendations. In order to implement these recommendations, the Section has joined with the Administrative Conference of the United States, the American Arbitration Association, the Center for Public Resources, the Federal Mediation and Conciliation Service, the National Institute for Dispute Resolution, the ABA Administrative Law and Regulatory Practice Section and the Society for Professionals in Dispute Resolution to promote the use of consensus-based resolution of disputes involving the federal government.

Inclusion v. Exclusion. From the earliest beginnings, the Section determined that it wanted its membership to reflect the diversity of the dispute resolution practice. This diversity included social workers, counselors, business people, educators, and others. To accommodate lay people, the Section created the Associates category with the hope that this group would play a vital role throughout Section activities.

What is emerging, however, is a trend in legislatures and the courts to pass regulations defining qualifications of neutrals based on educational degrees such as being an attorney or a masters or doctorate in social work or psychology. These definitions are not based on research or evaluations, but instead the need to catalog the neutrals. A goal of the Section must be to assist courts and legislatures to craft their rules carefully. The policy must be inclusive rather than exclusive so that all effective neutrals are included.

Standards. The quest for standards is related directly to the quest for qualifications. As dispute resolution becomes more prevalent, many justice leaders feel a need to establish standards for neutrals and the processes. Depending on the forum, some standards may govern the process. For example, the large private providers such as the American Arbitration Association and Judicial Arbitration and Mediation Services both have promulgated standards for third party neutrals. In many forums, however, there are no standardized criteria for neutrals. Historically, the quest for standards is driven by anecdotes. As we begin the task of articulating standards for third-party neutrals there needs to be much more emphasis on research and evaluation so that when standards are created, they are based on knowledge, rather than limited anecdotal evidence.

Funding. Professor Frank Sander has observed that there are essentially two models for funding alternatives to dispute resolution. The predominant method is to rely on volunteers or near-volunteers to fill the need. This method is used in federal courts for court-annexed arbitration, early-neutral evaluation and mediation programs. The second, adopted in some jurisdictions such as Florida and Texas, is to have the disputants pay the neutrals to whom the case has been referred. Both of these models have their shortcomings. The use of volunteers, while instilling a sense of civic participation in the justice system, cannot be expected to sustain the increased demand for the services of neutrals. More importantly, if ADR is to develop responsibly as a practice, its practitioners need to be reasonably compensated.

Having disputants pay for neutrals also has its problems. As a matter of public policy, I believe it is short-sighted to provide disputants with court adjudication free or for a modest filing fee and charge parties for alternative processes

which may be more appropriate in a particular case. The underlying problem is clear: if we are to provide a public justice system that provides a full range of dispute resolution processes, then we must find the necessary public funds to pay for it.

\* \* \*

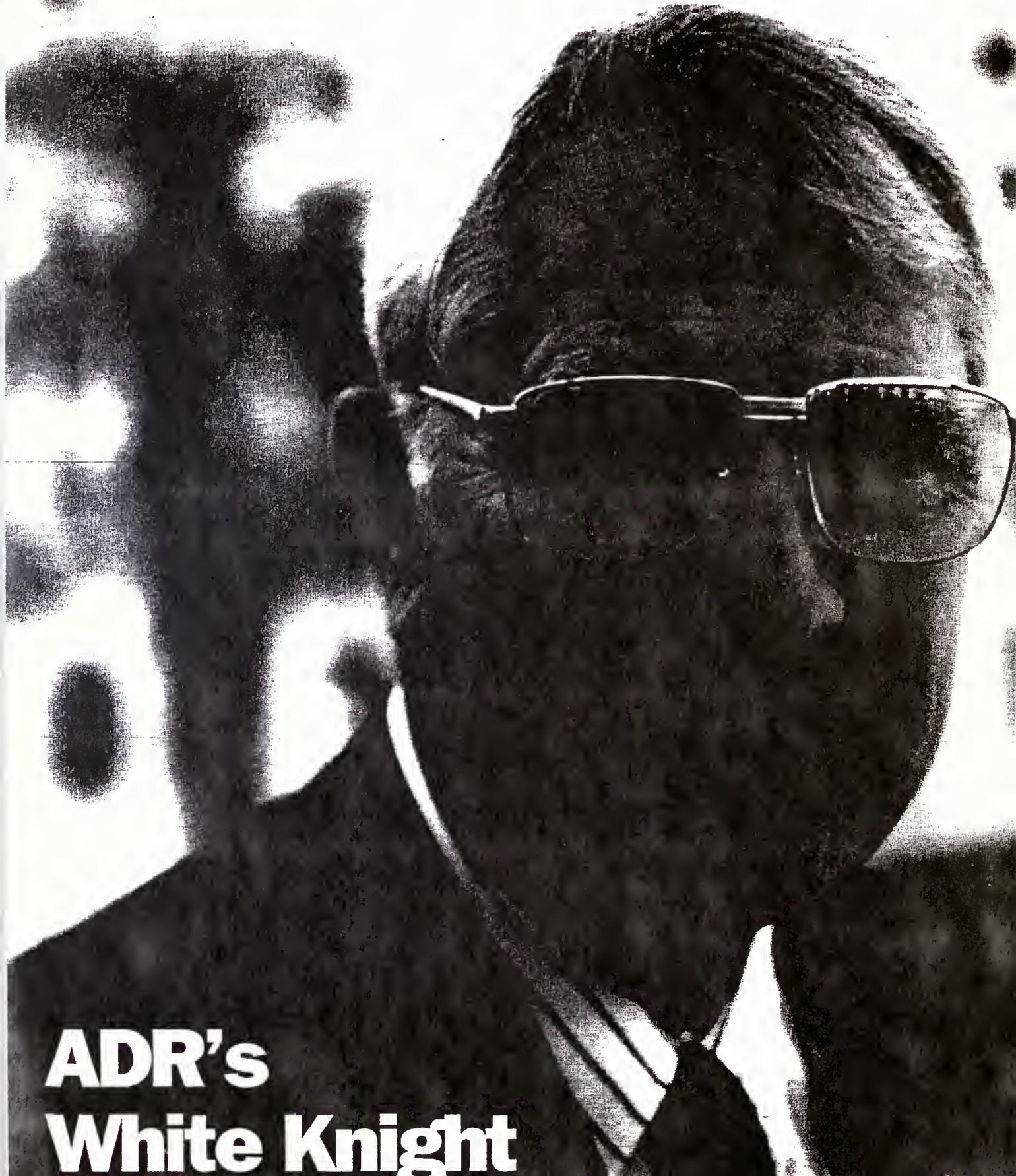
Dispute resolution has entered an exciting new era. Many call this step institutionalization. I prefer to think of it as fully integrating dispute resolution into the legal system, creating a more efficient, effective, and user-friendly system. Somehow, in accomplishing this integration, we need to capture the spirit of creativity and flexibility that has characterized the history of dispute resolution while responding to the many challenges that lie ahead. I trust that the Section will be a significant contributor in creating a system that "fits the forum to the fuss" and enhances the quality of justice in the United States.

## APPENDIX N

# California Law Business

Supplement to the Los Angeles Daily Journal and the San Francisco Daily Journal

Friday, September 13, 1993



## ADR's White Knight

## ALTERNATIVE DISPUTE RESOLUTION

# A White Knight to ADR's Rescue

**Robert Raven already has slain many legal dragons. Now he's putting his hefty clout behind alternative dispute resolution.**

By KATRINA M. DEWEY

Old trial lawyers never die, they just ride off into the sunset. That was the ending penned for Robert D. Raven of Morrison & Foerster, who will turn 70 later this month.

A towering presence in the American legal system, Mr. Raven has become a legend by giving more than most to his clients, his law firm and the legal system. Even for the good guys, though, happy endings have become rare.

After 40 years of working for the cause of justice, Mr. Raven had begun to seriously consider taking the of counsel status he has long sought – and spending more time on the ranch. In the past year, he moved back to San Francisco from Los Angeles – where he moved part-time starting in 1989 to serve as an anchor for Morrison's office there, particularly in litigation.

Despite his intentions, the famed workaholic had a hard time slowing down. He was roped into serving as president of the Union Internationale Des Avocats XXXVII Congress, which drew roughly 750 of the world's top lawyers to San Francisco last month. He had an ulterior motive, however: One of the meeting's three days was devoted to a global view of Mr. Raven's new cause: alternative dispute resolution.

His fancy for that topic would not be surprising, considering much of his time these days is devoted to helping partner Kathleen Fisher defend Bank of America's use of an alternative dispute resolution clause against a class action contending it violates consumer protection laws.

His ADR advocacy isn't merely one last stand for a great client, however. Mr. Raven's legacy is at stake.

Through his entire career, Mr. Raven has

promoted the vision of equal access to justice in the criminal and civil systems, greater delivery of legal services to the poor, and the need to end the exclusion of women and minorities.

After decades of battling for those causes – including clashes with California Governor then President Ronald Reagan over the funding of legal services to the poor – and often winning, Mr. Raven saw his beloved concepts of justice falling prey to new enemies from both the left and right. The legal system, strapped for resources, is under attack from the Quayle posse, contending it is a self-inflicted competitive disadvantage costing the U.S. economy \$300 billion per year, while the trial lawyer posse claims every matter must be heard in a public forum.

Things looked grim for the fair maiden Justice until, over the crest rode Mr. Raven on his trusty steed, known only as ADR, to see if he could save the day one last time. Ironically, the gravest criticism leveled at his new cause is that it creates one justice system for the rich and another for the poor – something against which he has worked for his whole life.

So he's returned to advocate the virtues of ADR and teach its methods to the heathen and the believers. "If you can do it quicker and easier, why not?" he asks.

---

*Legendary lawyer Robert D. Raven has put his considerable clout behind the creation of an ABA dispute resolution committee. "If you can do it quicker and easier, why not?" he asks.*

---

His return to Raven Ridge nestled in the foothills of the Sierra and his wife, the lovely Leslie Kay, will just have to wait.

In a legal world bereft of heroes, Mr. Raven often seems a solitary figure. Though he's considered one of the top rainmakers in California and has defended a lifetime's worth of corporate defendants, he's maintained his focus on the ideals that led him to enter the legal system many-years ago.

In 1949, he and his Cadillac, Mich.

sweetheart left the farm and drove to Berkeley, where he enrolled in law school, graduating near the top of his class three years later. He was smart, but certainly not a man of the world. (Although a tailgunner's stint had sent him to the South Pacific for three years of World War II.)

His knowledge of the legal system was limited to two lawyers, but these weren't just any old lawyers: Clarence Darrow and Abraham Lincoln were his heroes. What he lacked in knowledge, however, he made up in intellect, idealism and his hardworking Midwestern ethic, which formed the basis for his simple philosophy that the U.S. legal system exists to "right wrongs." When he graduated from Boalt Hall in 1952, he joined Morrison, Foerster, Holloway, Shuman & Clark as its 17th lawyer, taking the largest of the three vacant offices when he arrived. Founded in the late 1800s, Morrison was considered a prime San Francisco firm, but its founders were beginning to get a bit long in the tooth. So Mr. Raven and the men who joined Morrison with him learned early on to be "scramblers. We learned you have to make people happy," he says.

Four years after he joined the firm, Mr. Raven became a Morrison & Foerster partner and soon after, his reputation as a trial lawyer soared. Most of his time was spent defending companies against allegations of unfair competition as antitrust claims flourished in the capitalist heyday fostered by the 1950s.

In 1964, three young turks – Mr. Raven, John Austin and former partner Richard Archer – decided action needed to be taken about the firm's future, so they planned and executed a shakeup of the old guard, according to Morrison legend. Under their vision, Morrison established a management structure and a long-range focus and began to look out for itself as a business.

In 1975, Mr. Raven succeeded his ally Mr. Austin as chairman of Morrison – a post he held until 1982. Between the two of them, they formed the current-day Morrison, which chairman Carl Leonard says should be known as Austin & Raven.

Today, Mr. Raven is credited with entrenching the firm's fabled do-gooder philosophy and instilling a free marketplace of ideas within the firm, expressed by law-

# ALTERNATIVE DISPUTE RESOLUTION

yers of every gender and ethnicity. Because of his idealism and vision – and his expansionist philosophy – Morrison grew from 68 attorneys to 182 during his tenure, adding offices in Los Angeles, Washington D.C., Denver and London.

"He epitomizes what the firm stands for and what the profession should stand for," says Mr. Leonard, who used many lessons from Mr. Raven as well as Mr. Austin in shaping the present-day Morrison (which he will pass off to Peter Pfister, the new chairman, on Oct. 2). "But it's like a mother and father, I have a hard time saying what came from which one. John is the heart and soul, while Bob is the builder, the dreamer. They complement each other."

Mr. Raven's career has been flush with shaping institutions to reflect his causes, but he has also found time to be passionate about his clients. He hates to lose – not so much because of affinity for competition, but because he cares about and identifies with his clients, which have included over the years Memorex Corp., Fujitsu Ltd., the Bay Area Rapid Transit District, as well as BofA, cement makers and forestry concerns.

He readily admits, though, to getting carried away at times.

Early in his career, Mr. Raven handled a tax case with Morrison partner Herbert Clark, whose face still stares back at Mr. Raven from his office wall. Mr. Clark helped found the San Francisco chapter of the Legal Aid Society and is credited with inspiring Morrison's pro bono agenda.

The old master and avid student had suffered a rare defeat that day when the court of appeals directed a judgment against their client. Mr. Raven was still stewing that night, when he and Mr. Clark had dinner at the Palace Hotel. "We had a great victory and we lost it," Mr. Raven wailed when Mr. Clark asked what the matter was. "Nonsense!" Mr. Raven says, recounting Mr. Clark's response. "If we do a good job, get the facts polished and arranged and get the law, if the court doesn't buy it, that's their problem."

"I'm not saying I ever accepted that," says Mr. Raven. "But it was a good lesson."

Today, though, when asked, Mr. Raven will say "if you retain me, you take the load off your shoulders and put it on mine." And he means it; even entering his autumn years, he can often be found at work before the sun comes up, puzzling out a problem for a client. (After the sun sets, he's often speaking at pro bono or bar association causes.)

His oversized passion for his clients has

always been equaled by his dedication to legal reform – the cause that has captivated him since the day he decided to become a lawyer. To further the goal of making the



**Morrison & Foerster Managing Partner Robert D. Raven has become a legend by giving more than most to his clients, his law firm and the legal system. The past president of both the American Bar Association and the California bar has now put his considerable clout behind alternative dispute resolution.**

legal system a better one for all, Mr. Raven has actively participated in bar association activities for 30 years, served on and spoken to hundreds of committees and associations, and testified numerous times before Congress and various panels.

Officially, his public service career began in 1961, when he joined the American Law Institute. The next year, he became a member of the Bar Association of San Francisco's committee on the judiciary and a representative to the federal bench's 9th Circuit Judicial Conference. He went on to hold virtually every significant post in the legal profession, including presidency of the American Bar Association (1988-1989) and chairman of its committees on the federal judiciary, on legal aid and indigent defendants and on the trial of antitrust cases. He served as president of the state bar of California in 1981 and the Bar Association of San Francisco before that.

His accomplishments are legendary, but he wants one more: a more efficient – and thus more fair – legal system in which lawyers help their clients by choosing the ap-

propriate forum, public or private.

The importance of preserving public resources for issues of weight to more than just the parties involved became an issue to Mr. Raven 30 years ago, when he first served as a private arbitrator hearing noninsured motorist cases for the American Arbitration Association.

"I could see from the other side of the bench," says Mr. Raven. "One lawyer kept saying, 'Do you hear that, Mr. Raven? Do you hear that?'" The lawyer's insistent pleading did not lead Mr. Raven to the conclusion that some disputes were too frivolous to be given any forum, as others might have decided. Instead, Mr. Raven concluded such grievances should be heard – but they didn't need to take the time of the public court system.

"I always thought if a trial was going on, there had to be one, two or three fools in there unless they were setting precedent," he says. To Mr. Raven, that's the distinction: Many cases should be heard and deserve to take the resources of the public system. Many, many others don't.

"There are more causes that should get tried than get tried now, because the courts are so jammed," he says. In particular, cases that establish precedent should be able to be heard – and many are not now.

That's why he put his significant clout behind the creation of a dispute resolution committee within the ABA last year. It took awhile for the bar association to really back ADR; it first formed a standing committee on the resolution of minor disputes 17 years ago. Mr. Raven now jokes that he ran for president of the entire ABA just to have a shot at getting on that committee.

Although he says "the way ADR is growing in this country is amazing," that surge has been a long time coming. In the intervening years, many individual ABA sections have created their own dispute resolution committees, but no entity existed to look at overall issues. By last year, 5,000 people wanted to join an ADR section – 1,500 of them non-lawyers. On its first day of existence, the dispute resolution section had 2,300 members.

Why any lawyer – much less an illustrious litigator like Mr. Raven – would want to extol the virtues of a system that could cut down one of the main engines of law firm profits is a good question. He, however, is concerned about justice and the greater good. Why the legal system as a whole – not typically associated with concern for the less fortunate – should heed his

# ALTERNATIVE DISPUTE RESOLUTION

words of wisdom is an even better question. But, he thinks he has the answer: If nothing is done to save the troubled legal system, justice for all could become just an historic phrase.

The most commonly cited public culprit behind the demise of justice is that the country has become more litigious as a society. Not true, says Mr. Raven. Numerous studies show that per capita Americans are not filing more lawsuits than in the past.

What might be imperiling the justice system, however, is the nature of some of those suits and the money spent pursuing them. Between 1972 and 1991 alone, it's estimated that spending on outside lawyers in the United States grew from \$10 billion to about \$100 billion, creating law firms of 1,000 lawyers. (Mr. Raven's firm itself exploded to 662 lawyers in 1992.) And, though millions are spent pursuing lawsuits, studies show that much of the money goes merely to the pursuit of the suit, including lawyer fees.

The seemingly ludicrous results in some suits also raise the public's ire, like the \$650,000 award to the man who jumped in front of the subway train and sued, claiming it didn't stop, or the \$100,000 award to the shopkeeper who complained of the emotional distress resulting from a customer's flatulence. Suits such as those – and the ziggurat of laws that provide for them – only magnify the idiosyncrasies of the U.S. legal system as business is increasingly internationalized.

But, even if there are no more lawsuits per capita, there are many, many more people in an increasingly complex society. And judicial resources simply have not kept up. Very few new courthouses have been built or courtrooms added, relatively, and the backlog in appointing federal judges to vacant posts – not to mention the adequacy of the number approved – is a crisis of the Clinton administration. Add to that equation the federalization of criminal law, which has scooped up thousands of defendants on drug charges and put them into federal court, and it's not really surprising there are few resources left for other public disputes. In some districts, the problem is so severe that the majority of court cases handled – up to 80 percent in the U.S. District Court for the Southern District of California, for example – are criminal.

Despite all the causes and effects of the justice system in peril, though, ADR remains in danger of attaining nothing more than fad status: That's where Mr. Raven

hopes to make a difference, instilling ADR in the jargon and decision-making process of every attorney and corporate executive.

"Examine the court system for just a minute," he says. "Year after year only about 90-95 percent of all cases filed in the U.S. are settled. And they probably settle too late to avoid mounting attorney fees. And whether it's ma-and-pa or a huge corporation, you tie up some of your talented people

*'Year after year only about 90-95 percent of all cases filed in the U.S. are settled. And they probably settle too late to avoid mounting attorney fees. And whether it's ma-and-pa or a huge corporation, you tie up some of your talented people from business operations to handle the suit.'*

**Robert D. Raven**  
**Morrison & Foerster**

from business operations to handle the suit." That can't continue, he says.

That line of thought has gotten the attention of corporations. More than 600 companies and their subsidiaries representing more than half the gross national product of the United States have signed the Center for Public Resource's pledge to consider ADR before suing another signee of the pledge. Mr. Raven has reminded an adversary of their client's pledge in court. The dispute was settled two weeks later.

Convincing lawyers it's real is another matter. Mr. Raven hopes he can handle that.

"This is like the Midwestern farmer in the 1930s with one plow being pulled by a team of horses when he first saw a tractor," he says, the twinkle and enthusiasm of a boy still reflecting in his eyes. "It's progress. It's not an option. How it's used is the option."

While Mr. Raven doesn't volunteer the example, he actually has at hand an excellent illustration of the value of resolving disputes. After seven years and hundreds of millions of dollars spent in the legendary sex discrimination case against State Farm Insurance Company, which Morrison defended (it took over midway-through the

case), Mr. Raven and a team of Morrison attorneys came in as a settlement crew to negotiate with Guy Saperstein, who represented the female plaintiffs allegedly denied opportunities for advancement by the insurance giant. Within a relatively short time, the heated dispute was over and settled for significantly less than the potential liability.

With Mr. Raven's focus on freeing the system so it can better provide justice for all, it's ironic that perhaps the chief criticism of ADR remains its reputation as an "out" for wealthy companies and individuals from the public court system, creating a two-tier justice system: one for the rich, another – overburdened and lesser – for the poor.

"Courts are becoming crowded for everyone," says Mr. Raven, who envisions forms of resolution that are available to all levels of disputes – from family disputes to complex antitrust claims that raise no precedent-setting issues. In one of his own biggest cases – the software disputes between IBM and Morrison's client Fujitsu – the clients entered agreements to arbitrate their differences until 2002.

Mr. Raven hopes he can help people understand why ADR is not about rich and poor. But, he thinks other issues will be crucial as ADR struggles to become a reality. More "neutrals" – the judge in ADR – need to be trained and ethics will also be an issue. Already, disputes are popping up raising the issue of biased neutrals. In addition, more lawyers need to learn the process – including when to use it.

"Timing," he says, "is everything." Companies have to see they can save money by using ADR. But, it's also important for them to feel involved in the process – something more common with mediation than actual arbitration, he says.

"And, we have to be very careful not to oversell it," says Mr. Raven. "There's no perfect answer."

That's one of the more pessimistic things the ever-optimistic Mr. Raven has ever said. He remains very hopeful the system will be improved, but it will take hard work.

"We're suffering from our own lack of attentiveness to this whole issue," he says. "The justice system, with all its faults, is a great bonus. How would you settle disputes without it?"

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## APPENDIX O

TRIBUTE TO ROBERT D. RAVEN  
ON THE OCCASION OF HIS RETIREMENT FROM MORRISON & FOERSTER  
APRIL 1994

**NARRATED BY JOHN AUSTIN AND MARSHALL SMALL  
PRODUCED BY JAMES M. SCHURZ**

**JOE MALONEY**

***WWII AIR FORCE RADIO OPERATOR/GUNNER***

He did a remarkable repair job on our hydraulic system, which enable us to make an emergency landing with our wheels down in Clark Field in Manila. We were later told that the plane was damaged so badly they had to scrap it.

**NARRATOR**

After the war, Bob returned to Michigan, and with the aid of the G.I. Bill, enrolled in Michigan State. While in college, Bob married Kay who had spent the war years in the service as a sergeant in the Marines. They were married in this house. And as the photograph shows, their marriage is a strong as the house in which they were married. In 1949, Bob and Kay landed in Berkeley where Bob attended Boalt Hall and Kay worked in the documents department in the main library. During his third year, Marta was born. [music]

**NARRATOR**

Immediately on graduation, Bob joined Morrison in the old Crocker Building, with a salary of \$325.00 a month. We were part of the young turks then, intent on building a law firm that attracted the best lawyers and pursued a larger vision of professional commitment and service. Bob was a rising antitrust lawyer.

**FREDERICK P. FURTH**

***FURTH, FAHRNER & MASON***

I have a story about Bob Raven. 1966. Ran a deposition in 111 Sutter Street. The deponent is a "poor" Mr. Harvey who had a theater chain up in Sacramento. Mr. Raven's evil clients had done him dirty by not giving the right movies. So I am defending Mr. Harvey and we're sitting across from each other. Bob is over here [*indicating position*] and I'm sitting here. Mr. Harvey is sitting here and I got a little tired, or something. And so I moved one of my feet. And in moving my feet, I bumped Mr. Harvey. And Bob Raven jumped up and said, "Dick Furth, you're trying to control your witness! You are telling him what to say." And he darned near slugged me. Why he frightened me half to death. Now that, ladies and gentlemen, is the Bob Raven of old.

**JOSEPH ALIOTO**

***FORMER MAYOR OF SAN FRANCISCO***

***Recorded at Sam's Grill.*** I remember Bob Raven from the days of the legendary Herbert Clark who's great claim to fame was that as the spectacular prosecutor he tried the very last of the stage coach robberies in the United States. Now, I'm not suggesting that Bob Raven has been involved in stage coach robberies representing all of the defendants against our good claimants. But there was a time when Bob finally went over to the plaintiff's side in the antitrust laws, in violation of the agreement we had, allocating territory between plaintiffs and defendants. I want to tell you something. It turned out that he was not only a spectacular defense lawyer in the antitrust cases, but a spectacular plaintiff's lawyer as well.

#### **NARRATOR**

Officially, Bob's public service career began in 1961 when he joined the American Law Institute. He went on to hold virtually every significant post in the legal profession. In 1971, Bob became president of the San Francisco Bar Association and established the tradition of activism that is the hallmark of the Association today.

#### **PETER G. KEENE**

##### ***OFFICE OF THE PUBLIC DEFENDER***

I remember back when I was just a young lawyer in the late 60s and early 70s, and saw Bob Raven's capturing of the Bar Association of San Francisco at that time. Bob crashed into it as an outsider and took it over and became its president. Most people have a vision of Bob as the Silver Fox, respectable, establishment character who has been president of everything, but -- The first time he was president, he came in almost on a coup. He came in from the outside. He came in, not up through the established chain of things.

#### **NARRATOR**

In 1975, he succeeded John as Chair of the firm, overseeing 60 lawyers. By the end of his tenure in 1982, the firm had grown to 182 attorneys, with branches in Los Angeles, Washington, DC, Denver and London. More importantly, with Bob's leadership the firm became a leader in hiring women. He still is the only one of us who gets invited to their get-togethers. In light of John and Bob's contribution to the firm, Carl Leonard commented that Morrison & Foerster could be appropriately re-named: Austin & Raven. In 1981, Bob became president of the California Bar. The key issue of Bob's tenure was funding for legal services. Bob led the opposition to the Reagan Administration's effort to eliminate the Legal Services Corporation. In a lobbying effort that included lawyers from every state bar in the country, the Legal Services Corporation was preserved.

#### **DAVID M. MADWAY**

##### ***S.F. REDEVELOPMENT AGENCY***

Bob Raven stepped forward as a bar leader, organized other bar leaders, and almost single-handedly put together a lobbying effort on Capitol Hill, the result of which was that the legal services movement survived.

#### **RALPH S. ABASCAL**

##### ***CAL RURAL LEGAL ASSISTANCE***

Within that three-week period after Ronald Reagan announced his intention to abolish the Legal Services Corporation, you [Bob] organized a California delegation, and much of the national delegation, so that on April 1, 1981, there appeared in Washington, DC, 160 representatives from 40 state bar associations all over the country for a one-day lobbying trip on the Hill. You told me, three or four days later, Howard Baker, who was then the Senate Majority Leader, called Chesterfield Smith, who was then the president of the ABA, and said that the Senate had never seen such an outpouring from the American Bar Association on any issue in the history of the then-existing members of the Senate. It was so impressed with that effort, that effort that you lead both in California and throughout the country, that one-day period resulted in this fundamental survival of the Legal Services Corporation.

#### **NARRATOR**

In 1988, Bob became president of the ABA after serving as Chair of the Standing Committee on the Federal Judiciary, the Standing Committee on Legal Aid, and the Long Range Planning & Management Committee. Characteristically, Bob's tenure was marked by a commitment to providing affordable justice to all.

**JOANNE M. GARVEY**

***HELLER EHRMAN WHITE & MCAULIFFE***

May I just call to your attention -- you managed to lead the ABA to heights that I don't think it had ever reached before, and I doubt if it will reach again.

**NARRATOR**

After completing his tenure with the ABA, Bob joined our Los Angeles office to enhance our litigation practice. He recently rejoined us in San Francisco, where he has turned his considerable energy to the cause of Alternative Dispute Resolution.

**ROBERT COULSON**

***AMERICAN ARBITRATION ASSOCIATION***

He did a very creative thing. He basically created a new section on dispute resolution, which is extremely important for dispute resolution in the United States.

**JOHN AUSTIN**

***MORRISON & FOERSTER***

Now that you are going Senior Of-Counsel, I am sure Kay and Marta could use your help on the ranch, particularly looking after the Morgan horses on the ranch. You will find that mucking stalls will give you plenty of time for mature reflection on your magnificent career. Bob, in our 40-year association, I can't remember ever having a serious disagreement about anything connected with the firm with you. For myself, and the other members of the Morrison family, many thanks for being you, which really says it all.

**NARRATOR**

And now we have some friends who would like to add their congratulations to what you have already received.

**HON. THIELTON E. HENDERSON**

***CHIEF JUDGE, US DISTRICT COURT***

We're still going to be calling on you, Bob, to continue to give us your good advice and your assistance, not only for the Historical Society, but any of the programs on this court which require wise and thoughtful counsel from the best that the bar has to offer. Best of luck to you.

**HON. A. WALLACE TASHIMA**

***JUDGE, US DISTRICT COURT***

Bob, I salute you and Kay on your new status of Senior Of Counsel. I hope this means that you will have more time to devote to improving the administration of justice. Good luck to both of you.

**MARGARET MORROW**

***QUINN KULLY & MORROW***

Bob has been a strong supporter of legal services for the poor, a strong advocate of adequate funding for our courts, a strong champion of alternative dispute resolution. When we look back 25 or 50 years from now, I think we're going to see that Bob was instrumental in helping to reshape the face of the American justice system. That's a legacy very few people can claim. Bob Raven is one of them. Bob, congratulations on all your years of service. I'm sure they will be matched only by your contributions in the years to come.

**FREDERICK P. FURTH**

***FURTH, FAHRNER & MASON***

Peggy and I, Bob, wish you a happy retirement. We know you won't retire. We know you'll be with us working for many years to come. God bless you.

**JOE MALONEY**

**WWII AIR FORCE RADIO OPERATOR/GUNNER**

On behalf of my wife, Betty, and myself, we wish Bob and his lovely wife, Kay, the best in retirement. Congratulations, Bob, from your radio operator.

**LAURENCE M. POPOFSKY**

**HELLER EHRMAN WHITE & MCAULIFFE**

He strictly was a lawyer's lawyer. There never was one better and there won't be one better than Bob. Congratulations, Bob.

**CHARLES B. RENFREW**

**LEBOEUF LAMB LEEBY & MACRAE**

I would like to say -- I'm not the only one, but I speak for a host of others -- and say to you, Bob Raven, we're proud of what you've accomplished for yourself, what you've done for Morrison & Foerster, and most of all, what you've done for the profession. I think that your life and your record can make us all proud of being lawyers.

**HON. EUGENE LYNCH**

**JUDGE, US DISTRICT COURT**

I started to do a settlement conference with Bob, in which he -- I forget which side he was on, but I know *Chuck E. Cheese* was involved in the case -- so I think of him whenever we wander into *Chuck E. Cheese* with my grandson.

**ROBERT D. EVANS**

**PRESIDENT, ABA**

Things are going along well for Bill [Clinton] and others here in Washington, and we wanted to send our best wishes to you. We're very upset, however, that you are no longer the ABA president and wish that could be remedied. It seems to me that you going to have some more free time now, and I've looked in the ABA constitution and by-laws and there's nothing prohibiting a person from having a second term. So, what you think? Give me a call. We can always

do a coup. But we need you back. So, God bless you, Bob. Sorry I can't be there to wish you the best. I think it's a great end to a great career.

**MAX L. GILLAM**

**LATHAM & WATKINS**

Bob, congratulations on your graduation. As one member of the Senior Bar to another, I can say the weather out here is just fine.

**SHIRLEY M. HUFSTEDLER**

**HUFSTEDLER KLAUS & ETTINGER**

I think Bob, with a great deal of grace and dignity and leadership, lead the ABA into being a force for diversity on the federal bench, as well as merit on the bench.

**BROOKSLEY E. BORN**

**ARNOLD & PORTER**

I was very proud to be associated with him in that role and have worked happily and with a great deal of personal satisfaction with him since then. I wish him and Kay all the best. Congratulations on a wonderful career, Bob.

**CRUZ REYNOSO**

**KAYE SCHOLER FIERMAN HAYS & HANDLER**

It's that sense of ethics that I always think about Bob Raven, and the importance of it for our profession, and the light that you have been, I think, for all of us in terms of keeping those highest ideals of the legal profession. For that, all of thank you.

**HON. D. LOWELL JENSEN**

**JUDGE, US DISTRICT COURT**

I think the legal system is immeasurably better because of Bob's legal career. And as a member of the hearty little band that left Boalt Hall in 1952, I can say that we're all very proud of you, Bob, and we wish you the very best, and hope that your retirement is marked by health and happiness, and by continued contribution.

## APPENDIX P

**Dinner Honoring Bob Raven**  
**April 1994**

Fortunately, for this sort of occasion, most people (or at least most of Morrison's partners) present a rich variety of opportunities for humor. Take Mel, for example, or Carl. In the somewhat younger generation, many hold great promise in this connection. Think of Alsup, or Harold, or Kathy, or, preeminently, Preston Moore. Even Peter, a pretty serious fellow with serious responsibilities, promises to provide rich veins to mine for a future occasion of this sort. But there are other people, like Lincoln or Mother Teresa, who aren't such good subjects. I'm sure the other speakers this evening will prove me wrong, but within the latter category, I put Bob. As evidence of my position, I point to the recent Maime Troupe parody of Peter's memo on the occasion of Bob's taking senior status. It took me several readings to realize it was a parody, since the activities it ascribed to Bob struck me as unusual, to be sure, but by no means beyond the range of the possible. In sort, Bob is many things, but to my mind at least, as a subject for parody he's not very funny.

I remember my first meeting with Bob. I had been recruited to Morrison & Foerster principally by Roland and somehow had missed meeting Bob. An interview with Mel had persuaded me, after three minutes of interrogation worthy of Torquemada himself, that I know nothing about anything, and could not possibly be a litigator. Roland, however, seemed to me the very picture of the brilliant successful young lawyer. (This was decades ago, and fell in one of those dicennial periods when Roland's tie collection was in fashion.) Moreover, as a banking lawyer, Roland dealt daily in a subject that I found utterly unfamiliar but which held the fascination of the unknown: money. Therefore, I told Roland that a banking lawyer was what I wanted to be, and grow up tall and rich just like him.

With this plan in mind, I duly arrived at One Market Plaza, 42<sup>nd</sup> floor, at 9:00 a.m., and was shown to Roland's office. I sat there quietly for some time, looking out on the Bay and the hills beyond, the sun dappling everything in silver light. I turned toward the door. Now, as all of you are aware, for Roland and other banking lawyers, 9:00 a.m. is the functional equivalent of dawn; for Bob it marks the end of the first third of a working day. In any event, there in the door stood Bob. My powers of description fail me. I thought for all the world that I was looking at Michaelangelo's working model for God, albeit fully clothed and with the best haircut I'd ever seen. I don't remember what Bob said exactly; something about a couple of little cases on which he needed a little help, a couple of weeks' work and no more, not really work anyway, but fun, all of this with an energy and enthusiasm that I hadn't experienced myself since I was roughly five, if then, and with a smile that far outmatched the sun pouring through Roland's window.

Now, I don't know about you, but if God asks me to help out, I don't refuse; vanity alone does the trick. So I mumbled something like, "Okay, sure." And Bob was gone. Unclear just what had happened, I gathered up my shiny new briefcase, and went out to

ask Mary Ann O'Sullivan where I might find the Litigation Department. Mary Ann, with a look for mixed sympathy and foreboding, said "Forty," and pointed down. In remembering this, various images come to mind: Aeneas in the land of the dead, the Inferno; but perhaps the closest is Frodo's voyage to Mordor. There I was, a hobbit, in the land of the orcs. Everyone, it seemed, was working on something they called BART. Everyone had the steely, slightly manic glint of young volunteers, hoping to be chosen by the commander to rush the enemy's artillery and throw themselves directly into the muzzle of the enemy's guns; not, I emphasize, in front of the muzzle, *into* the muzzle. Or better still, to throw themselves on a live grenade thrown into their general's tent, saving him to lead to victory and glory in the battles to come, and earning the general's smile of praise.

In the years that followed (oh, by the way, I never emerged from what I still think of as the 40<sup>th</sup> floor, and being a banking lawyer has remained for me only a youthful dream) I followed Bob's lead into quite a variety of campaigns and engagements, the most prominent and protracted of which was, of course, the legal variant of the third World War, Fujitsu, and which supported Morrison's variant of the military-industrial complex for nearly eight years. Like most old soldiers, looking back on the wars brings many tales to mind, of strategies and schemes and defeat. There were, of course, the moments of almost radiant splendor – for example, when Jody Jakosa called the arbitrators in Fujitsu, in oral argument, the "arbitraries." There were also the characters: There was Nelson playing Merlin to Bob's Arthur. And there were the lieutenants, Alsup, Moore, Preovolos, to name a few with singular, not to say eccentric, characteristics all their own. But most of all, there was Bob himself.

Now, in thinking back on all of this, there has come to my mind a central question. What makes a great commander in battle and in war? My scattered readings in military history suggest some characteristics in common. Alexander the Great and Hannibal, it is said, required almost superhuman efforts of their troops, crossing the Alps in winter, the desert of Iran in the hottest summer days, but never more, or as much, as they demanded of themselves. Lee and Grant, it is said, shared another characteristic, noted also of Scipio Africanus, never underestimate the enemy or treat anyone other than as an equal, with respect. I think in this connection of Bob's former secretary, whom he invariably called Miss Cobb. Preston once, to my shock and horror, called her Virginia, and soon thereafter left for Florida. Then there's the related characteristic noted of such figures as Julius Caesar, Charlemagne, and Marlborough, of being able to see the world from the other guy's point of view and, while being prepared to cross the Rubicon if necessary, making sure that the bridge is never entirely burnt. Finally, there is Churchill. Now, to be sure, physically Churchill and Bob have nothing in common, but in action and spirit, there are great similarities. To take a minor example, they say Churchill's staff spent most of the Second World War chasing rabbits – ideas that Churchill, in his groundless enthusiasm and energy, came up with to "foil the Huns" – most of which didn't work out, but some of which turned out to brilliant. Since no one knew which was which, all had to be pursued.

But in the end, I think none of these possible analogies is quite apt. In pondering the problem, however, I came up with what I think is a pretty good parallel: the end of Republican Rome and the emergence of the empire. Actually, the parallels are quite shocking, with some adjustments to the sequence. Think of California as Italy, of the colonies of Roman soldiers and their families sent to new foundations in all corners of the then-known earth. One can go further: Morrison has had its civil wars, its Lepidus, even a Crassus or two. In this historical panorama, there is only one possible role for Bob, as Morrison's Augustus. Of course, you can't carry this too far. If Bob is Augustus, that makes Carl Tiberius and Peter Caligula, and I'm not suggesting that we drop "chairman" and call Peter the "Raven." Nonetheless, there are striking similarities. No one did more than Augustus to reconcile the ancient values and religion of Rome, the virtues of honor and faithfulness, to the demands of empire. There is another parallel that is perhaps most significant of all. Augustus, who spent much of his youth in battle, came to hate war, and gave the world a century of respite that has rightly been called the Augustan peace.

I recall, in this connection, one evening in the office at One Market Plaza. I was working on a project, probably, given the hour, for Alsup. Bob, of course, was still there. He always was. He came down to my office and said: "Have you seen the sunset? Look at the sunset." I followed him to the corner office a couple doors down; we stood there and looked at the magnificence of San Francisco at dusk. Finally, Bob said: "Don't get so wrapped up in your work that you don't see the sunsets." What that, he padded in his slippers back to his office. That occasion, I think, is that really kept me on the 40<sup>th</sup> floor. Great commanders have spirit and vision, a moral authority, that compel mortal soldiers to follow where they lead, and do it gladly.

Ron Carr

April 1994  
Albuquerque, New Mexico

## APPENDIX Q

**BIG BOB**

Every morning at the firm you could see him arrive  
Stepped into the place about a quarter to five  
Kind of broad at the shoulder – and broad at the hip  
And everybody knew you didn't give no lip  
To Big Bob

When he came to the firm there was only fifteen  
There was no antitrust and times was lean  
Then came the cases from the silver screen  
And Bob begun rakin' in all of that green  
Big Bob

Life at the firm became hurry and haste  
Everything grew including Bob's waist  
Hundreds of associates, offices too  
And all of the success was plainly due  
To Big Bob

Then like a crash of thunder, hard times hit  
House counsel grabbed work, bit by bit  
Everybody wondered if they'd have a job  
And the only answer could come from Bob  
Big Bob

A memo went out for a meeting one day  
All gathered around to hear what he's say  
With his silver strength and his steady gaze  
They knew he'd lead them out of that maze  
Big Bob

Bob strode to the front to quiet their fear  
All drew close and strained to hear  
Bob spoke the words that would stem the tide  
He said, "Have fun with the law – and treat it with pride."  
Big Bob

**PETER PFISTER & BILL ALSUP**  
**APRIL, 1994**

## APPENDIX R

# News

## \$500,000 Gift to Establish Endowed Chair at Boalt

A \$500,000 gift in honor of Robert Raven, a nationally respected trial lawyer and an alumnus of Boalt Hall, is being given to the law school by the international law firm of Morrison & Foerster.

Raven, 70, continues practicing with the firm as senior of counsel.

Pending formal approval by the regents, the endowment will establish the Robert Raven Chair in Access to Justice to help Boalt Hall both attract and retain its faculty and to support the work of a distinguished teacher and scholar interested in issues of access to justice.

It also will provide the Robert Raven Lecture Series to bring annually to the law school, starting in 1995, a distinguished legal scholar who will deliver a public lecture.

"We are very grateful for this gift that has come from someone who has always been a strong supporter of the University and such a champion for justice," said Chancellor Tien.

"The law school is very honored to accept this generous tribute to Bob Raven from his partners," said Herma Hill Kay, dean of Boalt Hall. "We are very proud of Bob's distinguished legal career. He has set the standard for providing the very highest level of legal services and has been a pioneer in developing effective alternative methods of dispute resolution."

Raven has been at Morrison & Foerster since his graduation from Boalt Hall in 1952. The 17th attorney to be hired by the firm, he became a partner there in 1956 and in 1994 moved to senior of counsel status. He was chair of the firm from 1974 until 1987, during which time Morrison & Foerster mushroomed

from 60 to 182 lawyers. The firm now has more than 500 attorneys in 14 offices worldwide.

Throughout his career, Raven advocated equal access to justice in the criminal and civil systems, greater delivery of legal services to the poor, and the need to provide increased opportunities for women and minorities in the legal profession.

He has held nearly every significant post in the legal profession including president of the American Bar Association and chair of ABA committees on international activities, the federal judiciary, legal aid and indigent defendants, and long range planning and management.

In 1971 he served as president of the Bar Association of San Francisco, lending the bar's support to the California Rural Legal Assistance, an advocacy group for farmworkers that was under attack by Ronald Reagan, then the governor of California.

As president of the state bar in 1981, he lobbied legislators to fight Reagan's attempt to cut funding for legal aid and also pushed successfully for bar approval of California's mandatory Interest on Lawyers' Trust Fund Accounts, which contributes to legal services for California's poor.

He also has devoted considerable time to the cause of alternative dispute resolution, advocating—as an alternative to expensive, time-consuming lawsuits—forms of resolution that are open to all levels of disputes. In 1993, Raven was instrumental in creating the 5,000-member Section of Dispute Resolution of the ABA and he currently is chair of the organization. ■

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